

**No. 51489**

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**United States of America  
and  
Nicaragua**

**Exchange of notes constituting an Agreement between the Government of the United States of America and the Government of Nicaragua regarding the Cooperating Nation Information Exchange System. Managua, 18 October 2004 and 23 November 2004**

**Entry into force:** *23 November 2004 by the exchange of the said notes, in accordance with their provisions*

**Authentic texts:** *English and Spanish*

**Registration with the Secretariat of the United Nations:** *United States of America, 25 November 2013*

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**États-Unis d'Amérique  
et  
Nicaragua**

**Échange de notes constituant un accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement du Nicaragua relatif au Système d'échange d'informations entre nations coopérantes. Managua, 18 octobre 2004 et 23 novembre 2004**

**Entrée en vigueur :** *23 novembre 2004 par l'échange desdites notes, conformément à leurs dispositions*

**Textes authentiques :** *anglais et espagnol*

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** *États-Unis d'Amérique, 25 novembre 2013*

[ ENGLISH TEXT - TEXTE ANGLAIS ]

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No. 188

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Relations of the Republic of Nicaragua, and refers to the ongoing counter-drug cooperation between the Government of the United States of America and the Government of Nicaragua. Specifically, via the Government of the United States of America's Department of Defense Cooperating Nation Information Exchange System (hereinafter "CNIES"), the Government of the United States of America provides the Government of Nicaragua with real-time radar track data. To ensure that such data and other interception-related assistance is employed consistent with relevant U.S. criminal law, and under the Cooperation Agreement between the Government of the United States of America and the Government of the Republic of Nicaragua to Suppress Illicit Traffic by Sea and Air, formalize a mutual understanding of the nature and import of this data and the conditions governing the use of that data and other interception-related assistance. The text of this mutual understanding follows:

"The Government of the United States of America is willing to provide assistance in locating, identifying, tracking, and intercepting civil aircraft in Nicaraguan airspace in order to facilitate the interruption of illicit drug trafficking routes and the arrest of illicit drug traffickers. In consideration of the ongoing, mutually beneficial relationship between our two Governments in the field of law enforcement efforts to combat illicit drug trafficking, the Embassy of the United States of America

proposes on behalf of the Government of the United States of America as follows:

#### I. Definitions

The term "U.S. Government assistance" as used in this Note shall include, but not be limited to: funding; intelligence; information; radar data (including data derived from the Cooperating Nation Information Exchange System (or "CNIES"); logistical support; command, control, and communications support; equipment; maintenance; and training provided by the Government of the United States of America.

The term "CNIES data" means data displaying the position of air and surface tracks of interest ("TOIs") based on geographic filters. The CNIES data includes both automatically-displayed Relocatable Over the Horizon Radar track information that has not been reviewed to ascertain the legal or illegal nature of the flight and TOIs that have been located and identified by other air surveillance systems or tracking aircraft as suspected narco-trafficking aircraft.

Consistent with Article 2 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal, September 23, 1971, to which both the Government of the United States of America and the Government of Nicaragua are parties, the terms "in flight" and "in service" are used in this Note as follows:

(1) An aircraft is considered to be "in flight" at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over responsibility for the aircraft and for persons and property on board.

(2) An aircraft is considered to be "in service" from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (1) above.

The term "interception" means the act by a Nicaraguan aircraft of approaching and remaining near an aircraft, with the goal of identifying that aircraft, and, if necessary, directing it back to its planned route, directing it beyond the borders of Nicaragua airspace, escorting it out of restricted, prohibited, or dangerous airspace, or instructing it to land.

## II. Interception of Aircraft

The Government of Nicaragua shall, when intercepting civil aircraft in flight, consistently and strictly adhere to the safety procedures in Annex 2 to the Convention on International Civil Aviation, done at Chicago on December 7, 1944 (the "Chicago Convention") and amendments thereto.

Further, the Government of Nicaragua shall ensure that all Nicaraguan personnel (whether in the air, in a command and control center, or elsewhere) involved in the interception of civil aircraft are familiar with such procedures. The Government of Nicaragua, when intercepting civil aircraft in flight, shall adhere to any relevant International Civil Aviation Organization ("ICAO") provisions on interception, including those contained in the Manual Concerning Interception of Civil Aircraft.

The Government of Nicaragua shall promulgate, throughout its civil aviation community via Notices to Airmen ("NOTAMS"), notice of the Government of Nicaragua's policies on interception. These NOTAMS will inform pilots that the Government of Nicaragua will not damage, destroy, or disable any civil aircraft other than in self-defense, and they shall include adequate notice of the procedures that the Air Force of Nicaragua will use to order intercepted aircraft to land so that aviators are aware of the procedures and can conduct themselves accordingly.

To the extent that a civil aircraft being intercepted by the Government of Nicaragua is intercepted because the government of Nicaragua believes that the aircraft is primarily engaged in illicit drug trafficking, the Government of Nicaragua shall use the sorting criteria set forth below to determine the nature of the suspect aircraft.