The Interwoven Destinies of the United States, Colombia and Panama: On Friendship, Commerce and Navigation Treaties and International Legal Imperialism

Marco A. Velásquez-Ruiz
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The traditional distinction between what is legal and what is political, and between law and politics, has today been profoundly modified. There are no more strictly legal issues.

ICJ Judge Alejandro Alvarez

I. Introduction

Nowadays, the United States is possibly the most powerful state in the world due to its economic muscle, military pre-eminence and global cultural influence; on the other hand, Panama and Colombia countries with entirely different socioeconomic conditions, political patterns and national projects whatsoever. But in the mid-XIX Century, the latter were part of a single country – due to Spain’s capricious colonial legacy – struggling to amalgamate as a stable nation, and the former was on track to becoming a hemispherical empire. Yet, the destinies of these three states are interwoven in a single tale, filled with assorted ingredients like Friendship, Commerce and Navigation Treaties and international legal imperialism, often obscured by official historical accounts which veil fundamental causal relations, schemes of imperial domination and neocolonial practices, behind concepts such as stability, democracy and progress.

Based on the general contention that International Law can (and has) served imperialist purposes – that is to say, extend a nation’s authority over another by establishing an effective influence on its political and economic affairs –, this paper intends to illustrate how the 1846 Friendship, Commerce and Navigation Treaty concluded between the United States and Colombia – commonly known as the Mallarino-Bidlack Treaty – was eventually used by the former as a neocolonial device on the latter. Essentially, the suggested tale on which this paper is built goes as follows: to a great extent, the United States consolidated its global hegemonic position due to its progressive political and economic sway over the Isthmus of Panama and particularly, upon the

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2 Separate Opinion in the “Conditions of Admission of a State to Membership in the United Nations” Case.
3 Back then known as New Granada, for which said denominations might be used indistinctively.
prerogative of controlling interoceanic transportation and communication. In order to acquire such privilege and motivated by the need to cover the wants associated with its expansion in North America and the insular Pacific, it took advantage of Colombia’s unstable situation as a nascent state and influenced the secession of Panama under the auspices of the abovementioned international conventional tool.

In order to tell this tale, this paper is divided in five parts. Section II aims at providing certain conceptual elements that support the paper’s main assertion regarding the alleged instrumental nature of International Law towards the consolidation of imperial projects. Next, Section III brings up the ideological surroundings within which the diplomatic relations between USA and Colombia arose – on the one hand Panamericanism, and on the other the Monroe Doctrine –, as well as the normative antecedents to the Mallarino-Bidlack treaty. Therefore, Section IV elaborates on the content and scope of said international instrument in order to build an argument as to its neocolonial nature. With the purpose of enlighten the implications of the previous assessment, section V relates a historical anecdote in which the Mallarino-Bidlack treaty was used to justify the interference of United States on Colombia’s internal affairs: the 1856 Panama Riot. Finally, a corollary on how the secession of Panama was an expected outcome of the dynamics produced with occasion of the Mallarino-Bidlack treaty and some supplementary concluding remarks are provided.

This paper does not intend to produce an exhaustive study on the extent of the diplomatic relations between Colombia and the United States, nor provide a full portrait of the motives and circumstances around the secession of Panama in 1903. Instead, it aims at contributing to the current debate on the role of International Law in the setting up of the postcolonial world by means of a critical reading of a historically relevant legal phenomenon, as it is located within a specific ideological background and analyzed from outside of the disciplinary box. Thus, the paper is supported by three types of sources; original legal material; the collection and presentation of archival material that exposes the thinking of the main characters of this tale – diplomatic agents, civil servants, members of the respective countries’ Congresses, etc. –; and the doctrinal analysis of scientific articles produced with occasion of the historical events that are being covered.
II. Basic concepts: imperialism, neocolonial practices and International Law

In order to advance on the alleged instrumental nature of International Law towards the consolidation of imperial projects, this section briefly introduces and articulates the concepts *imperialism* and *neocolonialism*, which are deemed to explain the nature and extent of the power dynamics that blended the relations between United States and Colombia during the XIX century. Subsequently, relevant literature is coined on the eventual role of International Law in the creation of dependency nexus between an imperial center and peripheral states.

A. Imperialism and neocolonialism

Following Edward Said, this paper regards imperialism as a system of domination and subordination organised with an imperial center and a distant territory, which is identified as the periphery. Said scheme encompasses a relationship characterized by one state influencing the political sovereignty of another political society, and can be evidenced in the existence of effective economic, social, or cultural dependency. From a normative standpoint, imperialism entails an ideological grounding that justifies domination and subordination with a *civilizing mission*, presupposing the existence of a dominating culture with an assimilationist vocation, on the one hand, and a social enclave in need of patronage, on the other. Therefore, the creation of supporting concepts that allow the establishment of categories and highlight differences is fundamental to maintain the latter setting.

Supplementary to the latter reading, imperialism can be explained from a political economy perspective. Authors like J. A. Hobson have pointed out that throughout their process of consolidation, industrialized nations found themselves jeopardized by issues associated to the profitable disposal of their economic resources; on the one hand, production exceeded the growth of consumption so new markets were required; on the other, the capital surplus consequence of massive industrialization had to be exported in order not to lose its cost-effectiveness. Furthermore, additional raw materials were needed to satisfy the internal demand. With the latter issues in mind,

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such nations had to look for a privileged position at sites out of their direct territorial domain to obtain what was needed to both maintain internal industrial production and generate wealth⁶.

While imperialism is assumed as a system of power articulation, the concept neocolonialism is here used in a supplementary way, to denote concrete practices in the context of an imperial project. In broader usage, neocolonialism may refer to general involvement of powerful countries in the affairs of less powerful countries. However, advancing on the work of Jean Paul Sartre, it can be conceived as a geopolitical dynamic by means of which a number of actions associated with the transnational movement of persons and capitals are used by central states to influence a peripheral country in lieu of direct military or political control⁷. Kwame Nkrumah, who originally coined the concept in his 1966 book “Neo-Colonialism, the Last Stage of Imperialism”, places neocolonialism as the main instrument of imperialism. In that regard, its core characteristic lies in the fact that whilst the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty, in reality its economic system and thus its political policy is in a great extent directed from outside⁸.

In Nkrumah’s approach to neocolonialism, five general patterns can be identified. First, although often the power exercising neocolonial control formerly ruled the territory object of such practices, it can also happen that a new power assumes that role. Second, one of the principal outcomes of neocolonial practices is that the mobility of capital and people is used for the exploitation rather than for the development of the host country. Third, the implementation of neocolonial practices involves the exercise of power without responsibility for the benefitted countries, and exploitation without redress for those who suffer from it. Fourth, that neocolonialism is based upon the principle of breaking up – or taking advantage of – former large united colonial territories into a number of small non-viable states which are incapable of independent development and must rely upon the former imperial power – or the one assuming that role – for defence and even internal

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security. Finally, the economic and financial systems of the intervened country are linked, as in colonial days, with those of the imperial power.\(^9\)

In this sense, neocolonial practices are assimilated as constitutive of a sort of economic imperialism, as well-identified financial and trade policies are used to influence less powerful countries in order to access specific economic and geostrategic advantages. Therefore, while no direct control is considered to be taken, this scheme of governance encompasses the implementation of transnational dynamics to assure effective intervention on the other country’s spectrum of influence.

**B. International Law as a neocolonial mechanism**

One of the principal ideas on which this paper rests is that International Law can be (and has been) used to serve imperialists purposes. Following Pahuja, there exists great controversy around the establishment of a consensus on whether said legal order has been used as a “cloak of legitimacy” thrown over the subjugation of colonized peoples by the imperial powers, in a distortion of its true spirit, or if on the contrary, it has always been encompassed by and in the service of the empire, as it has been molded by the powerful to in order to serve their interests\(^10\). This paper proposes that the instrumental capacity of International Law to effectively influence a country’s political and economic affairs is given by two decisive features: first, the positivist nature of its structure and founding logics, and second, its universal scope – its aspiration to be generally applicable, regardless of a state’s specific location, political organization or cultural background. This way, the mechanisms particularly employed for such purpose can be regarded as neocolonial, in that they are intended to extend the influence of a country on another without an explicit act of intervention or formal occupation, but using the mobility of people and assets as a way to create extraterritorial interests.

The construction of an argumentative line supporting the latter affirmation should start with the recognition that International Law’s modern shape is, to a great extent, product of the emergence

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of positivism in the XIX century as its *fundamental underpinning*\(^1\), as it displaced naturalism from being the privileged scientific paradigm. In that regard, as the state came to assume a central position within the legal system, the sovereign consolidated as the highest authority and could only be bound by that to which it had agreed to be bound\(^12\). This way, and following David Kennedy, positivism rooted the binding force of International Law on a loose analogy to the private law of contract, and established a *public legal order* out of state practice and a catalog of explicit agreements between nations\(^13\). The resulting picture from the extrapolation of the latter approach into a geopolitical context is hence an “idealist” community of *free* and *equal* political bodies relating to each other by means of consent and under the basis of *reciprocity*. These interactions are what gives rise to the rules that are regularly observed and enforced by sanctions\(^14\).

Perhaps the principal consequence of the inoculation of positivism in International Law was that the only way a political community could acquire formal relevance in the global scenario was by means of its recognition as a state in the context of the increasingly relevant international community of nations. Therefore, the question of *recognition* became vital and for the emerging states in the XIX century – the “non-European and USA world”, including the nascent Latin American Republics emerging from the compartmentalization of the former Spanish colonies in America --, since obtaining said membership to access the community of nations gathered around International Law was practically the only way to acquire a stable identity as a *free and equal* subject of the rights and obligations, based on customs or the conclusion of inter-state agreements. Given the positivist nature of International Law, the process of recognition became *constitutive* of the recognized states’ legal personality, which consequently led to the proliferation of treaty-making; moreover, in many occasions such dynamic was taken advantage of by the recognizing states to advance favorable conventional arrangements with the new club members\(^15\).

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In addition, the universalization of International Law in the XIX century is indicative of its instrumental use to spread effective influence in the periphery, especially on the political and economic affairs of the political societies transiting to become part of the international community of nations\textsuperscript{16}. In particular, the achievement of such a dynamic was based on an ideological development that Angie has identified as the \textit{dynamic of difference}. Using the conceptual tools of positivism, a gap understood principally in terms of cultural differences between the civilized European – including the United States – and uncivilized non-European world was postulated. From the recognition of said differences and the assumption of a civilizing mission by the former, International Law was determined to be a bridge not only to relate with any people of the globe no matter their “level of barbarism”, but to \textit{transmit civilization to the uncivilized}\textsuperscript{17}.

Finally, in the particular case of semi-peripheral countries resulting from the dismemberment of the Spanish empire – such as Colombia –, their formal recognition as members of the international community was relatively swift, as soon as they established a permanent government and sent diplomatic representatives to European nations and the United States. However, the longed for sovereignty conferred, in the end, less autonomy and equality than said countries anticipated\textsuperscript{18}. International Law thus eventually played a role as a language of legitimacy in international relations and as a mechanism to exercise effective influence, thus reflecting a neocolonial logic.

III. Ideological surroundings and normative antecedents

This section aims to describe the ideological environment in which the diplomatic relations between the United States and Colombia emerged and developed during the XIX century, as well as the normative antecedents of the 1846 Mallarino-Bidlack treaty, which is here assumed as the legal tool that decisively contributed to the establishment of a neocolonial dynamic between those two countries. Both accounts will be useful to understand how the latter treaty performed with regards to the situation of the Isthmus of Panama.


A. Ideological surroundings: Panamericanism and the Monroe Doctrine

Colombia became an independent nation in 1819 after creole elites, organized around the person of Simón Bolívar and counting with the support of peasantry, defeated a Spanish empire already weakened by the consequences of the Napoleonic Wars. Exhausted by both the colonial economic dependency on peninsular Spain and the discriminatory treatment of the people who had born outside the motherland, said elites decided to conduct a progressive military campaign that resulted in the erection of a new nation, as it was happening all over the continent. Forty three years before – in 1776 –, the United States had achieved such status by overcoming the British Empire and consolidating as an industrial power. Although there are records of prior contacts related to the eventual support of the United States for Bolivar’s emancipatory cause, formally speaking those countries established diplomatic relations in June 1822, when President James Monroe received Manuel Torres as the Colombian Chargé d’Affaires at Washington.

Since their establishment, the diplomatic relations between United States and Colombia developed in the context of two transcendental political phenomena that played a fundamental role in the setting of specific power position and relational dynamics among these two nations: the Monroe Doctrine on the one hand, and Panamericanism on the other. Although they have occasionally been identified as part of a single ideological stream and eventually shared certain objectives with respect to the rejection of European influence on regional affairs, as will be illustrated their respective origins are different and they served opposite interests.

Although the term was formally coined until 1850, the Monroe Doctrine was originally formulated by President James Monroe during the State of the Union Address to U.S. Congress in December 2nd 1823, and was progressively assimilated as the foundation of that country’s foreign policy with regards to the nascent Latin American nations, a policy which aimed at safeguarding and

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19 According to a commentator of the early XX century, the wars for independence in Latin America did substitute Creole landowners for Spanish officials, and, by opening ports to the world facilitated further growth of business, trade and commerce. It has been said that beyond the emancipation from Spain and Portugal, said opening was the ultimate purpose of the independence movement. See THOMAS, Alfred. “Latin America and the Post War World”. 2 World Affairs Vol. 105 (1942), p. 120.

20 Authors like Whitaker has pointed out that probably the most that can be said around the relation between the Monroe doctrine and Panamericanism is that the intensive propaganda conducted in the United States from 1815 to 1823 by Latin American agents (such as Manuel Torres) and by American citizens who were in close touch with Latin America (such as David Porter) did a great deal to popularize some of the ideas that were subsequently gathered up in the Monroe Doctrine. See WHITAKER, Arthur Preston. “The United States and the Independence of Latin America, 1800-1830”. New York: Russell & Russell Inc., 1962, p. 467.
enhancing its considerable interests in the region in the context of an eventual European attempt to regain control over those territories\(^{21}\). In practice, as Connel-Smith has suggested, that meant the establishment and subsequent maintenance of U.S. hegemony through the exclusion of extra-continental power capable of challenging it\(^{22}\). Regarding its content and in spite of the annexation of additional elements across time, the doctrine originally consisted of two parts. First, the negative *principle of non-colonization* that strongly demanded that European powers make no further colonization attempts in the region. And second, the positive *principle of the two spheres*, according to which there was a distinctive “American system” that implied the existence of a community of interest between the United States and Latin America around republicanism\(^{23}\).

It is important here to clarify the nature and scope of the Monroe Doctrine. Initially, it was the product of a unilateral act of the United States, Latin American states were not consulted nor did the doctrine’s implementation depend on the consent or action of any other nation. Indicative of the latter is the fact that when Francisco de Paula Santander – Vice President Santander of Colombia by the time the policy was formulated – attempted to sound out the possibility of establishing an alliance between the two countries in accordance with the doctrine, the offer was declined by the United states on the basis of neutrality\(^{24}\). Therefore, it is also noticeable that although the principle of the two spheres accounted for the existence of an “American system” shared by the whole region, the United States did not intend to establish an alliance but simply to set the contours of a sphere of influence. It dispelled any illusions of closer cooperation when it declared that such an attitude would be inconsistent with traditional neutral policy\(^{25}\). Finally, it is

\(^{21}\) Already in May 1819 the Russian Minister in Washington exhibited to the Secretary of State of that time instructions to persuade the United States to refrain from recognizing the South American countries, also intimating that Europe was a unit in this matter by means of the consolidation of an alliance between the United Kingdom, Russia, Prussia and Austria after the defeat of Napoleon in 1815. See CRICHFIELD, George W. “American Supremacy. The Rise and Progress of the Latin American Republics and their Relations to the United States under the Monroe Doctrine Vol. II.” New York: Brentano’s, 1908, p. 375.


\(^{24}\) In an article published in the *Gaceta de Colombia* in early 1824, Vice President Santander manifested that “The United States (...) begun to play among the civilized nations of the world that powerful and majestic role which befits the oldest and most powerful nation of our hemisphere”, when referring to the opportune character of President Monroe's message to Congress of December 2, 1823. See ROBERTSON, William S. “South America and the Monroe Doctrine, 1824-1828”, in *1 Political Science Quarterly Vol. 30* (1915), p. 83; GIL, Federico G. “Latin American – United States Relations”. New York: Harcourt Brace Jovanovich Inc., 1971, p. 62.

interesting nonetheless that one of the immediate outcomes of the Monroe Doctrine, and particularly in the context of the American System principle, was the aim of developing a favorable market for U.S. manufacturers in Latin America so as to meet the country’s economic needs, as vehemently pointed out in a speech given by Henry Clay in March 182426.

Progressively, the Monroe doctrine transformed from its original negative and passive character into a positive and active attitude, as the United States assumed a very controversial role in the maintenance of regional stability and concretized its interest over various spots in the western hemisphere27. In December 1824, non-intervention in the internal affairs of the new states was incorporated to the doctrine28. Later on, with occasion of the expansion of said country to the west coast, the concept “manifest destiny” permeated the doctrine so as to justify provocative actions such as the conflict with Mexico that precipitated the annexation of Texas and the purchase of former colonial territories like Florida or Louisiana with the idea that the United States had a mission to spread republican democracy29. Ultimately and under the administration of Theodore Roosevelt (1901-1909), the Monroe doctrine acquired a distinct belligerent attitude towards the governments or situations considered as potential threats to U.S. interests. Therefore, it was told that under the “big stick ideology”, said country couldn’t allow Latin American nations to conduct themselves without observing a behavioral framework and consequently, had a duty to eventually establish civilized governments where there were semi-barbarous governments in order to see that foreigners were protected in their lives and property30.

On the other side of the spectrum but in parallel to the Monroe Doctrine, Panamericanism emerged as an endogenous ideological proposal to address the rise of Latin American states in the context of regional solidarity, as well as to dissuade an eventual European reconquering spirit. In general terms, it projected the region as a confederated territory that based its union in a common colonial past to be overcome and a shared cultural legacy to potentiate. Moreover, it advanced in the

appropriation of the social control mechanisms originally developed by the former colonial powers – including international law – so as to consolidate their position within the international community of nations. Although Panamericanism should be assimilated as a collective creation from the Latin American elites accountable for emancipation from Spain, its original formulation is found in Simón Bolívar’s celebrated Carta de Jamaica dated 1815, in which the liberator manifested his dream of having a “single nation”, even if he saw it unlikely due to the complexities associated to regional power struggles and socioeconomic disparities among the countries.

Somehow, the idea of Panamericanism crystalized – at least in an embryonic way – through the conclusion the Union, League and Confederation treaties among the new Latin American republics, as these legal devises aimed at stabilizing said countries’ position through mutual recognition and the establishment of military alliances to counterstrike any belligerent pretention from Europe. Hence, between 1822 and 1825, Colombia concluded treaties with Peru (1822), Chile (1822), The United Provinces of the Rio de la Plata (1823), Mexico (1823) and the United Provinces of Central America (1825), thus covering most of the region through a network of interstate agreements that not only provided for the initiation of diplomatic relations, but also included the reciprocal recognition of civil rights and commercial privileges to the citizens of the contracting states when located at the other party’s territory, thus establishing a sort of juridical safeguarding accompanying the reality of regional migration.

Nevertheless, the 1826 Panama Congress should be considered as the quintessential element of Panamericanism, where a first attempt to create a regional organization of American states took

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32 “It is a grandiose idea to think of consolidating the New World into a single nation, united by pacts into a single bond. It is reasoned that, as these parts have a common origin, language, customs, and religion, they ought to have a single government to permit the newly formed states to unite in a confederation. But this is not possible. Actually, America is separated by climatic differences, geographic diversity, conflicting interests, and dissimilar characteristics. How beautiful it would be if the Isthmus of Panamá could be for us what the Isthmus of Corinth was for the Greeks! Would to God that someday we may have the good fortune to convene there an august assembly of representatives of republics, kingdoms, and empires to deliberate upon the high interests of peace and war with the nations of the other three-quarters of the globe.” See BIERCK Jr., Harold (Ed.). Selected Writings of Bolivar Translated by Lewis Bertrand. New York: The colonial Press Inc., 1951, available at http://faculty.smu.edu/bakewell/BAKEWELL/texts/jamaica-letter.html (last accessed March 3rd 2015).
33 Yet other objectives, such as freedom of movement and establishment of people across the region, were also recognized as relevant by this diplomatic process. In fact, such policy was considered by Simón Bolívar, the intellectual author of independence, as the foundation of a prospective common citizenship.
place. Although it was originally viewed by Bolivar as an essentially Latin American process, an invitation was finally extended to the United States by the government of Colombia due the efforts of Vice President Santander, who had faith in reaching a state of truly hemispherical solidarity by means of the eventual conclusion of a multilateral agreement similar to the ones bilaterally concluded between Colombia and the other Latin American nations that could “pluralize” or “Panamericanize” the Monroe doctrine. Yet, in spite of the express call and its positive reception by the executive, the U.S. Senate manifested reluctance of sending an official delegation of said country to the Isthmus. Not only it questioned the President’s capacity to decide upon the attendance to the Congress, but decided to request a report from its Committee on Foreign Relations, which expressed the following:

“Turning from the undefined objects of this Congress, so imperfectly disclosed in the vague description given of them, if seen at all, they are presented most indistinctly to their view, and regarding those which are particularly mentioned and described with more precision, this committees have not been able to discover in any one of these last a single subject concerning which the United Stated ought to enter into any negotiation with the states of America to be assembled at the contemplated congress at Panama.”

After four months of debate, the US Congress approved sending two delegates, but to no avail. One died en route to Panama; the other made no effort to reach Panama, but journeyed instead to Tacubaya, Mexico, where the Spanish-American statesmen planned further meetings.

B. Normative antecedents: the 1824 Anderson-Gual treaty

The Anderson-Gual treaty, concluded between the United States and Colombia in October 1824, was the first legal accord concluded by the former country with any of the new Latin American nations.

35 In a message directed to the U.S. Congress relative to the proposed assembly of American nations at Panama, dated December 1825, President John Adams manifested that said event “is believed to be of infinite moment that the principles of a liberal commercial intercourse should be exhibited to [Latin American nations], and urged, with disinterested and friendly persuasion, upon them, when all assembled for the avowed purpose of consulting together upon the establishment of such principles as may have an important bearing upon their future welfare. (…) The consentaneous adoption of certain principles – maritime neutrality, free ships make free goods doctrine, restrictions to blockades – may be established, by general agreement, with far more ease, and perhaps with less danger, by the general engagement to adhere to them, concerted at such a meeting, than by partial treaties or conventions with each of the nations separately. An agreement between all the parties represented at the meeting that each will guard, by its own means, against the establishment of any future European colony within its borders, may be found advisable. This was, more than two years since, announced by my predecessor to the world as a principle resulting from the emancipation of both the American continents. Essential appendage to their independence.” See American State Papers, Senate, 19th Congress, 1st Session, Foreign Relations Volume V., p. 834-835.
states, and arguably set the basis for its progressive involvement into the latter nation’s political and economic issues, even if \textit{prima facie} said instrument was introduced to public opinion as a mechanism of purely commercial promotion. Reluctant to negotiate multilateral agreements on any issue with any group of nations – as the one proposed in 1826 by Bolivar at the Congress of Panama –, the United States decided to use the model previously adopted in a number of bilateral treaties concluded with European nations – France (1778), the Netherlands (1782) and the United Kingdom (1794) – so as to obtain economic and personal privileges for U.S. citizens trading with or moving to Colombia, under the basis of absolute reciprocity and by means of the inclusion of an individualized rights-based discourse\textsuperscript{38}. Moreover, the legal instrument negotiated by Richard C. Anderson – the U.S. minister in Bogota – and Pedro Gual – Colombia’s Minister of Foreign Affairs of that time – crucially contained a most-favored-nation clause the objective of which was the removal of preferential treatment to British commerce in Colombia\textsuperscript{39}.

In order to demonstrate that the treaty under analysis, notwithstanding its commercial nature, had the ulterior objective of stimulating transnational mobility of people and capitals to place U.S. interests in Colombia so as to manufacture legitimate reasons to eventually conduct intrusive actions, it is necessary to unveil the process through which the \textit{Anderson-Gual} legal instrument came to be. As a matter of fact, it was not the United States but Colombia, moved by the urgency to stabilize as a state, which was the primary booster of a bilateral agreement between these two nations. Upon the departure of Bolivar to continue with the emancipatory actions in the South of the region, Vice President Santander remained in charge of securing the position of the country within the international community. Therefore, and in parallel to the Panamerican initiative, he gave precise instructions to Pedro Gual to start informal discussions on the negotiation of a treaty with Charles S. Todd, Confidential Agent of the United States to Colombia, in December 1822\textsuperscript{40}, which revealed that the nascent republic believed in the possibility of establishing a multi-purpose alliance with the country of the north. However, Todd always maintained that such an alliance

would never be accepted by the U.S. congress, so an eventual agreement should be limited to more specific issues.

In early 1824, Richard C. Anderson arrived in Bogota as the US Minister to Colombia in replacement of Mr. Todd, who left the country without concrete results. Later that year José Maria Salazar, the Colombian Minister replacing Manuel Torres at Washington, sent a letter to the U.S. Secretary of State John Quincy Adams in which the United States was requested to clarify its position with regards to new evidence discovered on a plan to reconquer Latin American territories and establish a monarchy by the Holy Alliance. Having the anxious Colombian request on the table, the United States formulated a concrete proposal that followed the terms of the abovementioned model, by means of which plenty of benefits were granted to its citizens intending to trade or conduct economic activities in Colombia. Following Arnulf Becker, it can be thus appreciated that The United States granted recognition to Colombia via the conclusion of a friendship, commerce and navigation treaty not only to support the emerging republic and to oppose the possible reestablishment of a monarchy in the continent, but also to obtain access to a new market; in that regard, the inclusion of a general authorization for establishment and exercise of commercial and industrial activities denotes the recognition of the economic reality behind transnational mobility.

IV. The 1846 Mallarino-Bidlack Treaty

The purpose of this section is to introduce the Mallarino-Bidlack treaty, which was concluded between The United States and Colombia in December 1846. For the purposes of this paper said international legal instrument is depicted as an example of the eventual instrumental nature of international law to serve imperial projects under a neocolonial dynamic. Hence, after illustrating the context under which the treaty was negotiated and concluded, this section analyses the content and scope of its provisions, placing special attention on article XXXV, by means of which the

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41 “In such circumstances the Government of Colombia is desirous to know in what manner the Government of the United-States intends to resist on its part any interference of the Holy Alliance for the purpose of subjugating the new Republics or interfering in their political forms: if it will enter into a Treaty of Alliance with the Republic of Colombia to save America in general from the calamities of a despotic system”. See MANNING, William. Diplomatic Correspondence of the United States the Independence of the Latin-American Nations Vol. 2. New York: Oxford University Press, 1925, p. 1282; ROBERTSON, William S. “South America and the Monroe Doctrine, 1824-1828”, in 1 Political Science Quarterly Vol. 30 (1915), 89-90.

United States ensured effective influence on the Panama isthmus and set the basis for a further secession of that region from Colombia towards the building of an inter-oceanic canal.

A. Context

Following the objective of becoming the primary power in the American Hemisphere, by the decade of 1840 United States had considerably expanded its borders to the West and Southwards of North America. The territory known as Louisiana – including most of the central part of North America – had been purchased from France in 1803; Florida and other continental territories were ceded by Spain in 1821; more recently, Texas and Oregon were annexed in 1845 and 1846 respectively. Finally, the west coast – prominently California – was about to be taken from Mexico after an overwhelming military campaign that would end in 1848. In that regard, as The United States gained considerable territory and defined the extent of its continental borders, it also started looking at securing its crescent extraterritorial interests, which emerged from the position it assumed upon the effective articulation of the Monroe Doctrine; this is to say, the outcomes of the mobilization of people and capitals abroad to commerce and acquire effective presence in different geostrategic locations.

For its part, the Colombia that had emancipated under the command of Simon Bolívar, dramatically changed its physiognomy due to the dissolution of the political organization that bonded the former Spanish colonies of Ecuador, Venezuela and New Granada since 1821; as a consequence of regional revolts and political jealousy from regional caudillos with respect to the central administration located in Bogota, in 1831 Venezuela and Ecuador seceded. In turn, the resulting state – identified as New Granada for most part of the XIX century until its re-baptism to Colombia – inherited precarious economic conditions, consequence of long-term loans with European moneylenders and the lack of infrastructure to stimulate agriculture and industrial production, and went through the first of many civil wars in 1839\textsuperscript{43}. Under such context, Colombia was a fragile and unstable nation that required urgent organization and economic stimulation, and whose integrity was still menaced by European interests. Moreover, colonization threats by European powers were still active. A number of actions conducted by the United Kingdom in

\textsuperscript{43} During the XIX century, Colombia went through at least 8 civil wars, not to mention the great amount of civil insurrections which took place at the regional level. The latter denotes a clear institutional fragility in the context of the never-ending discussion between the country’s traditional political forces: first, between federalists and centralists, and thereafter, between the Liberal Party and the Conservative Party.
Central America started to be identified as a risk to Colombia’s territorial integrity; in 1835, it formulated claims over certain territories located in Nicaragua and Honduras – coast portions of said countries not very far from Panama – by virtue of concessions which had been granted by Spain to British subjects during the XVIII century. In such context, in 1841 it concluded a treaty with the Mosquito Indians, which inhabited said locations and disregarded the authority of the new Latin American states, so as to progressively establish a British protectorate.

Both the prosperous perspectives of the United States and the uncertain situation of Colombia came to interplay with occasion of the emerging need to build an inter-oceanic system of communication to facilitate trade and transportation in the region and, under a global picture, worldwide. As early as March 1835, the U.S. Senate had requested through a resolution addressed to the executive exploring the opening of treaty negotiations with the governments of Central America and Colombia for the purpose of setting up the conditions for the opening of communication between the Atlantic and Pacific oceans, and of securing the free and equal right of passage to all nations on the payment of reasonable tolls. In 1842 New Granada proposed that the British, French and United States governments should participate and guarantee the neutrality of the communication system and of the territory through which it would pass, but such proposal was rejected by the involved governments. The United States had recently acquired California after the war with Mexico, and the rapid development of the states located on the west coast made the construction of a canal a question of greater importance. Moreover, the dramatic discovery of gold deposits in the recently incorporated western territories – period acknowledged as The Gold Rush – generated the need to count with an efficient transportation system to both facilitate the mobilization of the people required for the exploitation of said natural resources and the transportation of the precious materials themselves.

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48 Before a trans-oceanic railroad or canal were established in the Isthmus of Panama, communication between North America’s east and west coasts was a complex enterprise. The overland route was dangerous due to the untamed conditions of the territories to be crossed and took 4 to 6 months. On the other hand, the alternative of circumventing the continent by ship would demand from six to eight months of traveling.
With said context in the background, the diplomatic relations between the United States and Colombia weren’t at their best moment. The 1824 Anderson-Gual treaty had deceased by its own limitation in October 1836\(^49\), and no effective extension had been accorded since the latter country decided not to maintain the commercial privileges initially conferred to U.S. people and capitals, in spite of the former country’s persistence\(^50\). According to Joseph Byrne Lockey, the main points of contention around the treaty’s content were the most-favorable-nation treatment and the prohibition of discriminating duties, since Colombia maintained that although reciprocal in theory, these prerogatives were unequal and burdensome in practice. Whilst Colombia required relaxation in the enforcement of the arrangement or the eventual renegotiation of said terms and, the United States disregarded said petition so the agreement expired and any negotiation interrupted.\(^51\)

After many years of failed attempts to reach an agreement with Colombia – including the conclusion of a treaty in December 1844 under the auspice of William Blackford, the U.S representative in Bogota, that finally wasn’t approved by the U.S. Senate due to the concessions made\(^52\) –, Joseph Bidlack arrived in Bogota as the new U.S. Chargé d’Affaires in December 1845 and found himself with an unfavorable attitude towards his country but, at the same time, with the opportunity to change such situation\(^53\). Although he had no authority to negotiate a treaty but simply to conduct the regular affairs part of its position, at some point he became convinced that Colombia was at last disposed to meet the terms of the United States due to the threats coming from both the British moves in Central America and the confirmation of a European expedition intending to occupy Ecuador\(^54\). Therefore, he wrote to the Department of State for authority and

\(^{49}\) “Article XXXI. The present treaty shall remain in full force and virtue for the term of twelve years, to be counted from the day of the exchange of the ratifications, in all the parts relating to commerce and navigation; and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both powers.” See UNITED STATES OF AMERICA. Treaties and Conventions Concluded between the States of America and Other Powers. Washington: Government Printing Office, 1871, p. 177.


instructions, but as no concrete reply was received, he decided to sign off the treaty. Said instrument was signed at Bogota, December 12, 1846, and ratified by both governments in 1848. It did not differ materially from the general draft of treaties, except in article XXXV, which was of a special character and related to the Isthmus of Panama.

B. Content and scope of the treaty

Under the basis of ideal sovereign equality and perfect reciprocity, the United States and Colombia concluded an agreement that has been acknowledged as one of the most remarkable in the history of American diplomacy, due to the great amount of benefits that said nation gained from it across time, especially from the legal provisions embedded in article XXXV related to the Isthmus of Panama. As commented within an official compilation of U.S treaties:

“(…) and above all, the guaranty provisions of Article 35 regarding the Isthmus of Panama embodied a wholly new principle in the policy of the United States and one which proved to be of momentous and permanent importance.”

In essence, the Mallarino-Bidlack treaty is a friendship, commerce and navigation treaty that in addition created a very particular alliance between the signatory countries, whose purpose was shaped around the establishment and maintenance of ways of communication across the Isthmus of Panama. For the purpose of its analysis, the treaty can be divided in two parts; on the one hand, the provisions regulating the commercial relations between the two countries, and on the other, the establishment of a special regime in the Isthmus of Panama.

The first part of the treaty was designed to settle the points of disagreement that had affected the relation between the two countries during the first half of the XIX century. First, it secured that

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59 According to Herman Walker, said treaties are one of the most familiar instruments known to diplomatic tradition. The title, commonly used to describe a basic accord fixing the ground-rules governing day-to-day intercourse between two countries, designates the medium par excellence through which nations have sought in a general settlement to secure reciprocal respect for their normal interests abroad, according to agreed rules of law. See WALKER, Herman. “Modern Treaties of Friendship, Commerce and Navigation.” Minnesota Law Review Vol. 42 (1957), 805-824.
the citizens, vessels and merchandise of the United States – and in accordance with perfect reciprocity Colombia’s citizens, vessels and merchandise too – could enjoy all the exemptions, privileges and immunities concerning commerce and navigation under the grounds of the most-favored-nation principle. And second, the treaty provided for the lifting of discrimination duties that could affect U.S. interests in Colombia. These provisions contributed to re-establish the beneficial conditions that the United States had lost after the Anderson-Gual treaty ceased to be in force in 1836, and represented a fundamental step for the massive ingress of U.S. capital to the Isthmus. On the other hand, the second part of the treaty (article XXXV) provided for the creation of an alliance between the two countries around the guarantee of the right of way or transit across the isthmus of Panama upon any present or future mode of communication to U.S. troops, citizens and merchandise, with the corresponding assurance of perfect neutrality and respect of Colombian sovereignty and property rights over said territory by the United States.

Even if Bidlack had no powers to negotiate the treaty, the deal was so beneficial for the United States that the issue was finally waved. In a Message to the Senate on the ratification of the Bidlack-Mallarino Treaty, President James Polk stated that although Charge’ d’Affaires Bidlack negotiated the legal instrument upon his own responsibility and without instructions from the government, the outcome was so beneficial for the United States’ interests that he still decided to introduce said treaty to the consideration of the legislative:

“The importance of this concession to the commercial and political interests of the United States cannot easily be overrated. The route by the Isthmus of Panama is the shortest between the two oceans, and from the information herewith communicated it would seem to be the most practicable for a railroad or canal. The vast advantages to our commerce which would result from such a communication, not only with the west coast of America, but with Asia and the islands of the Pacific, are too obvious to require any detail.”

Moreover, even though President Polk accepted that U.S. foreign policy had traditionally avoided entangling alliances with any foreign nation, the very peculiar circumstances of the case conferred the possibility to make an exception; first, the territorial guaranteeing to a foreign nation is justified by the fact that the United States would have concrete interests on such territory, even greater than for Colombia itself; second, the territorial guarantee is limited to the Isthmus of Panama, where interoceanic passage and communication would take place; third, it would constitute no alliance

for any political object, but for a purely commercial purpose; and fourth, the ultimate purpose of the treaty is to advance on the securing to all nations the free and equal right of passage over the Isthmus. Finally, it assured that the guaranty of the sovereignty of Colombia over the Isthmus is a natural consequence of the guaranty of its neutrality\textsuperscript{61}.

The U.S. Congress accepted President Polk’s argumentation and the treaty was ratified in June 1848. Hence, it was the only occasion in the nineteenth century on which the United States accepted the overture of a Latin American state to defend its sovereignty, and fortified the position of said country in the region\textsuperscript{62}.

V. The Panama Riot

With the purpose of enlighten the instrumental nature of the Mallarino-Bidlack treaty on the United States’ interventionist dynamic on Colombia so as to gain control over the Isthmus of Panama, this section relates a historical anecdote in which said legal instrument was used to justify the interference of the former on the latter’s internal affairs: the 1856 Panama Riot.

After that the Mallarino-Bidlack treaty was concluded in 1848, the consequences of the treaty didn’t take long to emerge. In the context of the territorial consolidation of the United States and the economic boost produced by the Gold Rush, the Isthmus of Panama became the best alternative to place an interoceanic railway that could cover the increasing demand for coast-to-coast transportation and mail delivery\textsuperscript{63}, and prominently, to ameliorate the conditions and duration of said journey. Therefore, with the U.S. government’s full assent, the Panama Railway Co. was constituted in 1850 at New York and immediately started the construction of the passage and its required infrastructure. In January 1855 it started regular operations between Colón in the Atlantic and Panama City in the Pacific, and comprised great and sudden changes for the Panamanian society that led to discontents, especially on the less privileged population, who was directly


\textsuperscript{63} The Pacific Mail Steamship Co. had been created by William Aspinwall in April 1848, after having acquired the right to transport mail under contract from the United States Government from Panama to California in 1847. In turn, the US Mail Steamship Co. was constituted in 1848 through the same way and for the same purpose, but to manage the other half of the route: New York-Panama.
affected by the arrival of progress while the central government in Bogota wasn’t able nor willing
to do something about it.

Thousands of North Americans arrived and established in Panama and were people whose culture
and way of life were strikingly different from those of the Panamanians and whose only objective
was generally to make money at any cost. In that regard, they were there to capitalize on the
traffic and consequently opened a great variety of businesses – saloons, hotels and restaurants –
that brought no direct benefits for local society. On the contrary, Panamanian workers suddenly
found themselves without jobs and lacking skills to work in the new industries. Before the
construction of the railway, the route from New York to California entailed travelling by canoe
and mule through the jungle across the isthmus, situation that became constitutive part of popular
classes’ main labour activities. Thus, steamships and the railroad did away with a three-hundred-
year-old transportation system based on the mule, human labor, and sail navigation. Additionally,
the newcomers brought diseases, inflated the value of land and were responsible for numerous
altercation with Panamanians which unveiled a discriminatory pattern.

Hence, the systematic establishment of U.S. capitals at the Isthmus between 1850 and 1855
incidentally generated adverse social conditions for Panamanians. Both the commission of
discriminatory practices by the former and the impoverishment of the latter as a consequence of
their relegation within the internal economic market raised an anti-US sentiment that triggered
violent uprisings against US persons and property. In April 15 1856, a riot caused by a strong
discussion between Panamanian natives and American citizens transiting across the Isthmus
resulted in the death of a number of American citizens, the wounding of a number of others, and
heavy property losses. José Manuel Luna, a native fruit vendor who that day was placed by the
zone were U.S. travellers were waiting to be embarked to California or took on the train heading
to the Atlantic side of the Isthmus, was mistreated and menaced by a group of “gringos” headed
by Mr. Jack Oliver. As the latter didn’t accept to pay for a slice of watermelon and offended the

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Panamanian retailer, a big-proportions riot was unleashed. Suddenly, a mob coming from the city’s less privileged district – the vicinity of Santa Ana Square – did burst into the quay area and charged at U.S. persons and property by the surrounding hotels and other public places, including the Panama Railroad Company’s building. As a result, at least 15 travelers and 2 natives were killed, a large amounts of goods was looted and immovable property was severely damaged. Consequently, by the end of 1856 the Panama Isthmus had been temporally seized by U.S. troops and the latter country was pushing Colombia to account for the damages generated to its citizens and their property. From a very interesting historical document – the report written by Amos B. Corwine, the U.S. Commissioner in charge of investigating and evaluating the consequences of the riot –, it is possible to capture the way in which the 1846 treaty was used to justify the assumption of an intrusive attitude by the United States, as a consequence of the Panama riot:

“The interest of our countrymen have here are too great to been neglected, and left at the mercy of an ignorant and brutal race, such as infest the Isthmus, and who can neither be restrained nor subdued by the authorities of the country. Nor are they driven hence by the enactment of oppressive, arbitrary laws, in violation of their rights guaranteed by the 1846 treaty. They need the protecting arm of our government, and I feel a confident assurance that it will be extended to them. I recommend immediate occupancy of the isthmus, from ocean to ocean, by the USA.”

Whereas the occupancy of the Isthmus didn’t take place beyond its temporary seizure, United States pushed Colombia to conclude a claims convention in September 1857, by virtue of which “all claims on the part of corporations, companies, or individuals, citizens of the United States, upon the government of New Granada (...) especially those for damages which were caused by the riot at Panama on the 15th of April 1856, for which the said government of New Granada acknowledges its liability arising out of its privilege and obligation to preserve peace and good order along the transit route”, being the latter statement nothing but a direct reference – and deference – to Mallarino-Bidlack Treaty’s article XXXV. Not only Colombia recognized its responsibility for the consequences of the Panama riot, but agreed to make full compensation to the effected U.S. citizens on the grounds of the international legal instrument that had been

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concluded 9 years before as a way to protect the Isthmus from external meddling. Finally, the compensatory duties assumed by Colombia generated that the country had to pay large amounts of money and endangered its public finances.

VI. Concluding remarks and Corollary

This paper has tried to illustrate the role of International Law in the expansion of the United States’ imperialist interests over Colombia in the XIX century, and in particular, it intended to explain the way in which the *friendship, commerce and navigation* treaties concluded between these two countries throughout that period played a definitive role in the progressive establishment of an effective influence of the former on the political and economic affairs of the latter. In that regard, the following ideas provide an outline of the paper’s main findings:

a. In the context of imperialism, international Law can be (and has been) used as a neocolonialist mechanism; that is to say, as a means to extend a nation’s authority over another people/political entity by establishing effective influence on its political and economic affairs. It was the doctrine of recognition that mediated and limited the admission of Colombia into the international community, and justified unequal treatment.

b. Under the influence of the Monroe Doctrine and Panamericanism, the Mallarino-Bidlack treaty generated the increase of commerce between the United States and Colombia, the arrival of massive U.S. investments at the Isthmus and particularly, the construction and management of an interoceanic railway by an U.S. company. Therefore, the region itself became an important overseas interest for the United States, to the extent that its control – for the sake of territorial stability and neutrality – became a strategic objective of said country’s foreign policy.

c. The systematic establishment of US capitals at the Isthmus incidentally generated adverse social conditions for Panamanian natives. The commission of discriminatory practices by the former and the impoverishment of the latter as a consequence of their relegation within the internal economic market raised an anti-US sentiment that triggered violent uprisings against US persons and property.

d. In consequence, the United States interpreted and applied the Mallarino-Bidlack treaty – especially its article XXXV – to exert direct influence on the political and economic affairs
of the Isthmus, to the extent that itinerant military intrusions took place and a claims commission aimed at compensate US interests at the expense of Colombia was constituted.

e. Neocolonialism was inaugurated with Colombia, and paradoxically it started because of a specific request made by the dominated nation. The term neo-colonialism describes the influence of countries from the developed world in the respective internal affairs of the countries of the developing world.

f. The case under analysis should be considered as a special instance of neocolonialism. Although the United States wasn’t a former colonial power to Colombia – as a matter a fact it supported the consolidations of the country’s independence through formal recognition –, it constituted a colonial relation by means of the unfolding of a strategy of political and economic control by means of the establishment of personas and businesses within its territory.

Finally, as a corollary, it is relevant to illustrate the way in which the 1846 treaty produced further effects on the diplomatic relations between the United States and Colombia. The legitimizing effect that the Mallarino-Bidlack treaty conceded to the increasing interventionist attitude of the United States, joint by the lack of effective presence by the Colombian government in the Isthmus, led to the secession of Panama in 1903 and the immediate positioning of the North American country as a protector of the new state, whose neutrality started to be considered as a common interest from an international legal perspective. The United States abstained from intervening in the 1903 insurrection at Panama, and used a restrictive interpretation of the 1846 treaty regarding the duty to maintain the sovereignty of Colombia over the Isthmus to justify such attitude. After the insurrection became effective, the United States recognized Panama as an independent nation from Colombia, and consequently assumed that the rights and obligations embedded in the 1846 treaty, with respect to the protection and neutrality over the Isthmus, were transferred to the new nation. Based on article XXXV of the 1846 treaty, the United States decided to protect Panama from Colombia’s intention to regain control over that territory, as it was depicted as a foreign power. Therefore, The United States and Panama concluded a treaty upon which the former acquired the right to build a canal, assuming perpetual control of a 10-milewide canal zone. Diplomatic relations between the United States and Colombia were re-established in 1914 with the Thompson-Urrutia treaty. Colombia got 25 million dollars as compensation for the loss of Panama, but once U.S. oil companies had received concessions to operate in Colombia profiting
billions of dollars. In 2006, Colombia enters into a Free Trade Agreement with USA. Once again, U.S. citizens and business are awarded with great advantages in the name of shared interests, equality and reciprocity.
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Annex 1: Article XXXV of the 1846 Mallarino-Bidlack Treaty

The United States of America and the Republic of New Granada desiring to make as durable as possible, the relations which are to be established between the two parties by virtue of this treaty, have declared solemnly, and do agree to the following points.

1st. For the better understanding of the preceding articles, it is, and has been stipulated, between the high contracting parties, that the citizens, vessels and merchandise of the United States shall enjoy in the ports of New Granada, including those of the part of the Granadian territory generally denominated Isthmus of Panama, from its southern-most extremity until the boundary of Costa Rica, all the exemptions, privileges and immunities, concerning commerce and navigation, which are now, or may hereafter be enjoyed by Granadian citizens, their vessels and merchandise; and that this equality of favors shall be made to extend to the passengers, correspondence and merchandise of the United States in their transit across the said territory, from one sea to the other. The government of New Granada guarantees to the government of the United States, that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be, hereafter, constructed, shall be open and free to the government and citizens of the United States, and for the transportation of any articles of produce, manufactures or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied, or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the government of New Granada, or by the authority of the same, than is under like circumstances levied upon and collected from the Granadian citizens; that any lawful produce, manufactures or merchandise belonging to citizens of the United States, thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or having paid such duties, they shall be entitled to drawback, upon their exportation: nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said Isthmus. And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favours they have acquired by the 4th, 5th, and 6th articles of this treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before mentioned Isthmus, with
the view that the free transit from the one to the other sea, may not be interrupted or embarrassed
in any future time while this treaty exists; and in consequence, the United States also guarantee,
in the same manner, the rights of sovereignty and property which New Granada has and possesses
over the said territory.

2d. The present treaty shall remain in full force and vigor for the term of twenty years from the
day of the exchange of the ratifications; and from the same day the treaty that was concluded
between the United States and Colombia, on' the 13th of October, 1824, shall cease to have effect,
notwithstanding what was disposed in the first point of its 31st article.

3d. Notwithstanding the foregoing, if neither party notifies to the other its intention of reforming
any of, or all, the articles of is treaty twelve months before the expiration of the twenty years
stipulated above, the said treaty shall continue binding on both parties beyond the said twenty
years, until twelve months from the time that one of the parties notifies its intention of proceeding
to a reform.

4th. If any one or more of the citizens of either party shall infringe any of the articles of this treaty,
such citizens shall be held personally responsible for the same, and the harmony and good
 correspondence between the nations shall not be interrupted thereby; each party engaging in no
way to protect the offender, or sanction such violation.

5th. If unfortunately any of the articles contained in this treaty should be violated or infringed in
any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain
or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries
or damages, until the said party considering itself offended shall have laid before the other a
statement of such injuries or damages, verified by competent proofs, demanding justice and
satisfaction, and the same shall have been denied, in violation of the laws and of international
right.

6th. Any special or remarkable advantage that one or the other power may enjoy from the
foregoing stipulations, are, and ought to be, always understood in virtue and as in compensation
of the obligations they have just contracted, and which have been specified in the first number of
this article.
Annex 2: Time Line