



# New Victory: Colombia's Fight Against Narcotraffic is Protected as an Essential Security Interest

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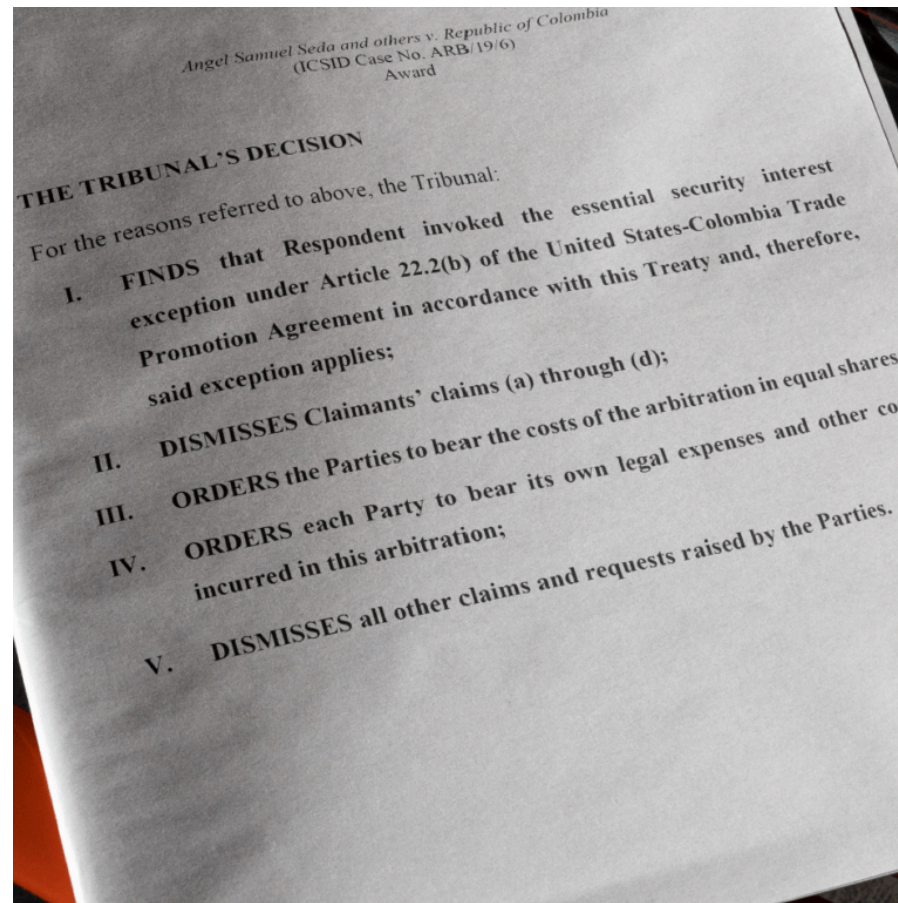
In a landmark decision issued on 27 June 2024, an arbitral tribunal chaired by Prof. Dr. Klaus Sachs and also including Prof. Hugo Perezcano Díaz and Dr. Charles Poncet unanimously upheld the Republic of Colombia's right to invoke the self-judging essential security interests clause under the Colombia-US Trade Promotion Agreement (TPA), dismissing by way of consequence all of the claims brought by the US Claimants.

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Colombia was represented by Gaillard Banifatemi Shelbaya Disputes. "It is the first time in the history of investment arbitration that a tribunal – in this case, unanimously – has fully upheld a State's invocation of its treaty-based essential security interest as a bar to the Tribunal's jurisdiction," comments **Yas Banifatemi**.



The dispute centered on Colombia's 2016 seizure of land in the outskirts of Medellin, where a major real estate project, known as the Meritage Project, was being developed. The project was found to have connections to the Oficina de Envigado, a criminal



organization involved in drug trafficking and money laundering. The Tribunal recognized Colombia's right to protect its essential security interests and to apply asset forfeiture measures against a property tied to illicit activities.

The decision has been heralded as a principled and symbolic triumph, and a testament to Colombia's fight against drug trafficking. "As counsel representing Colombia," adds **Ximena Herrera**, "but even more so as a Colombian citizen, I am overjoyed with the Tribunal's decision. It upholds a State's right to pursue its legal remedies to fight organized crime and drug trafficking."



This victory was achieved with the full and precious support of Mr Giovanni Vega-Barbosa, Acting Director for International Defense, and the full teams at Colombia's National Agency for the Legal Defense of the State, and Colombia's Prosecutor's Office. The Gaillard Banifatemi Shelbaya Disputes team comprised **Professor Emmanuel Gaillard** (who led the team until his passing), **Yas Banifatemi**, **Ximena Herrera-Bernal**, **Youssef Daoud**, **Yael Ribco Borman**, **María del Pilar Álvarez**, Carolina Barros, and **Sophie Davin**. The case was filed in March 2019 and involved countless written pleadings and three sets of hearings. The sensitive nature of the information shared by Colombia in the arbitration, notably ongoing criminal investigations conducted by Colombian Prosecutors, has led to the information on the case publicly shared on the International Centre for Settlement of Investment Disputes (ICSID) platform to be redacted due to confidentiality.

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