

CORRESPONDANCE

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1. THE AGENT OF NICARAGUA TO THE REGISTRAR OF THE
INTERNATIONAL COURT OF JUSTICE

[See I, pp. 3-7]

2. THE REGISTRAR TO THE AGENT OF NICARAGUA

28 July 1986.

I have the honour to acknowledge receipt of two Applications by the Republic of Nicaragua, one instituting proceedings against the Republic of Costa Rica and the other against the Republic of Honduras, both filed in the Registry today, 28 July 1986 at 10.00 a.m. local time.

The Government of Costa Rica and the Government of Honduras are informed by me by telex¹ of the filing of the Applications. In accordance with Article 38, paragraph 4, of the 1978 Rules of Court, a certified copy of the relevant Application will be immediately transmitted to the Governments concerned.

(Signed) Santiago TORRES BERNÁRDEZ.

3. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES
DU HONDURAS

28 juillet 1986.

Comme suite à mon télégramme² de ce jour, j'ai l'honneur de confirmer à Votre Excellence que le Gouvernement de la République du Nicaragua a déposé aujourd'hui, 28 juillet 1986, à 10 heures du matin, au Greffe de la Cour internationale de Justice, à La Haye, une requête introduisant une instance contre le Gouvernement de la République du Honduras.

Votre Excellence voudra bien trouver ci-joint, conformément aux articles 40, paragraphe 2, du Statut et 38, paragraphe 4, du Règlement de la Cour, copie certifiée conforme de ladite requête. Je lui ferai prochainement parvenir d'autres exemplaires de la requête en question, dans l'édition imprimée, établie par les soins du Greffe, qui en contiendra également la traduction en langue française.

Je saisis cette occasion pour attirer l'attention de Votre Excellence sur l'article 40 du Règlement de la Cour qui dispose, à son paragraphe 2, que dès la réception de la copie certifiée conforme de la requête ou le plus tôt possible après, le défendeur fait connaître à la Cour le nom de son agent. Le paragraphe 1 du même article dispose que les agents doivent avoir au siège de la Cour un domicile élu auquel sont adressées toutes les communications relatives à l'affaire.

¹ Not reproduced.

² Non reproduit.

4. THE REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

28 July 1986.

With reference to my telex message¹ transmitted to you today, I have the honour to communicate to you herewith a copy of the Application instituting proceedings against the Republic of Honduras filed by the Government of the Republic of Nicaragua in the Registry of the Court at 10 a.m. on 28 July 1986. The usual printed bilingual edition is in preparation, and copies will be supplied to you as soon as possible with a view to the notification contemplated by Article 40, paragraph 3, of the Statute of the Court.

5. LE CHARGÉ D'AFFAIRES A.I. DU HONDURAS AUX PAYS-BAS AU GREFFIER

13 août 1986.

J'ai l'honneur, suivant les instructions reçues du ministère des relations extérieures du Honduras, d'accuser réception de la copie certifiée conforme de la requête introductive d'instance du Nicaragua contre le Gouvernement du Honduras, déposée le 28 juillet au Greffe de la Cour et parvenue au Honduras le 1^{er} août 1986.

Le ministère hondurien des relations extérieures se propose de vous faire connaître ses vues au sujet de ladite requête le plus tôt possible.

(Signé) Arias DE SAAVEDRA Y MUGUELAR.

6. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN²

21 août 1986.

Le 28 juillet 1986 a été déposée au Greffe de la Cour internationale de Justice une requête par laquelle la République du Nicaragua a introduit contre la République du Honduras une instance en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*.

J'ai l'honneur, à toutes fins utiles, de vous transmettre ci-joint un exemplaire de cette requête.

7. THE MINISTER FOR EXTERNAL RELATIONS OF HONDURAS
TO THE REGISTRAR

29 August 1986.

The Government of Honduras, following the receipt of the certified copy of the Application of the Government of the Republic of Nicaragua,

¹ Not reproduced.

² Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

addressed to the International Court of Justice, and dated 25 July 1986, has the honour, acting on the basis of Article 40, paragraph 2, of the Rules of the Court, to nominate Ambassador Mario Carías as Agent, charged with the representation of Honduras in this matter; his address for service being the Embassy of Honduras, Catsheuvel 83, 2517 KA The Hague.

In so acting, the Government of the Republic of Honduras is bound to state that the accusations made against it in the Application are without any legal basis. The Government expressly rejects them. Furthermore, the Government of the Republic of Honduras would emphasize that the true origin of the situation of which the Government of Nicaragua complains lies essentially in the evolution of internal political events within Nicaragua itself. These events have produced a political alignment, both international and within Nicaragua, which has created friction with Nicaragua's neighbours, and has led Nicaragua into a series of illicit acts against those neighbours, in particular the encouragement and fomenting of civil strife within neighbouring countries and the organization of armed incursions into their territories, including the territory of Honduras.

With respect to jurisdiction, the Government of the Republic of Honduras maintains the view that the Court has no jurisdiction over the matters contained in the Application introduced by the Government of Nicaragua.

The Government of the Republic of Honduras takes this view in the light of the principle that jurisdiction rests on consent, a principle deriving from the Statute of the Court and reaffirmed by the Court in its Advisory Opinion on the interpretation of the Peace Treaties, of 30 March 1950, *I.C.J. Reports 1950*, p. 71. Based on this principle, the Government invokes the reservations which accompany its Declaration accepting the compulsory jurisdiction of the Court dated 22 May 1986, which applies with equal force to the jurisdiction provided for in Article XXXI of the Pact of Bogotá.

(1) Firstly, reservation (a) excludes from the jurisdiction of the Court:

“les différends au sujet desquels les Parties seraient convenues ou conviendraient d'avoir recours à un ou plusieurs autres modes de règlement pacifique”.

Clearly, the facts and situations alleged in the Nicaraguan Application cannot be isolated from the whole context of events in Central America since 1979. The Government of the Republic of Honduras would recall the fact that, as it has already emphasized in its Note addressed to the Court through the intermediary of the Secretary-General of the United Nations, dated 24 April 1984, amongst the other procedures for pacific settlement of disputes put into operation within the regional framework of the Organization of American States, a comprehensive process of negotiation has been conducted by the Contadora Group of States. This initiative has been taken with a view to achieving, in the spirit of Central American co-operation, a progressive and peaceful settlement of the various disputes between Central American States. The initiative actively involves 13 Latin American States; it has been recognized and approved as the appropriate procedure for settlement by the United Nations, by the European Communities, and the international community in general.

The Government of the Republic of Honduras considers it is profoundly regrettable that this surprising Application by Nicaragua, essentially inspired by political considerations, should be made. Nicaragua must know that its

Application will compromise the hopes which both Nicaragua and the other States concerned had placed in this process, a process which the Court itself has recently described as an effort "which merits full respect and consideration as a unique contribution to the solution of the difficult situation in the region" (Judgment of 27 June 1986, para. 291). The Government of Nicaragua must know that, by its action in making this Application it is jeopardizing the successful outcome of the Contadora process, and is attempting to frustrate any further progress. Yet it is this same Contadora process which both Nicaragua and Honduras have agreed to use as the most appropriate method of resolving the very disputes which form the subject-matter of the Application made by Nicaragua. For these reasons, these disputes are excluded from the jurisdiction of the Court on the basis of reservation (a).

(2) Secondly, reservation (c) accompanying the declaration of the Government of the Republic of Honduras of 22 May 1986, also excludes

"les différends relatifs à des faits ou situations nés des conflits armés ou actes de même nature pouvant affecter le territoire de la République du Honduras dans lesquels elle pourrait être directement ou indirectement impliquée".

It is clear that this reservation applies precisely to the facts and situations invoked by the Government of Nicaragua in its Application.

The Government of the Republic of Honduras would further reserve the right to expand and explain its views in relation to the Nicaraguan Application in a written pleading to be filed subsequently, and would hope that the Court will confine all preliminary pleadings, by all Parties, exclusively to the issues of jurisdiction and admissibility, in accordance with established precedent.

(Signed) Carlos LÓPEZ CONTRERAS.

8. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA¹

3 September 1986.

I have the honour to inform Your Excellency that the Vice-President of the Court, exercising the functions of the presidency pursuant to Article 13, paragraph 3, of the Rules of Court, wishes to receive the Agents of the Parties to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, at 11 a.m. on Friday 12 September 1986. The purpose of the meeting will be, pursuant to Article 31 of the Rules of Court, to ascertain the views of the Parties with regard to questions of procedure in the case including the suggestion made by the Government of Honduras in the final paragraph of its letter of 29 August 1986, a copy of which was transmitted to you with our letter of the same date.

(Signed) Eduardo VALENCIA-OSPINA.

¹ A similar communication was sent to the Agent of Honduras.

9. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

3 September 1986.

I have the honour to refer to the letter addressed on 29 August 1986 by the Secretary of Foreign Relations of the Republic of Honduras to the Registrar informing him, in particular, of the appointment of Your Excellency as Agent of the Republic of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. The receipt of that letter was acknowledged by the Registrar's letter of the same date.

The letter from the Secretary of Foreign Relations, while drafted in English, contains two quotations in French corresponding to reservations (a) and (c) to the Declaration accepting the compulsory jurisdiction of the Court, made by the Government of the Republic of Honduras on 22 May 1986. They read as follows:

- (a) "les différends au sujet desquels les Parties seraient convenues ou conviendraient d'avoir recours à un ou plusieurs autres modes de règlement pacifique".
- (c) "les différends relatifs à des faits ou situations nés des conflits armés ou actes de même nature pouvant affecter le territoire de la République du Honduras dans lesquels elle pourrait être directement ou indirectement impliquée".

The text of the above-quoted reservations is identical to that contained in the French translation of the Declaration of acceptance sent to the Registry under cover of a letter of 26 May 1986 from the then Ambassador of the Republic of Honduras to the Netherlands, His Excellency Mr. R. Arita Quiñonez.

However, the above-mentioned French text differs from the French text of the Declaration of acceptance communicated to the Registry by the Secretariat of the United Nations. According to that French text the reservations in question read as follows:

- (a) "les différends pour lesquels les parties ont décidé ou pourraient décider de recourir à un autre moyen ou à d'autres moyens de règlement pacifique des différends";
- (c) "les différends ayant trait à des faits ou des situations ayant leur origine dans des conflits armés ou des actes de même nature qui pourraient affecter le territoire de la République du Honduras, et dans lesquels cette dernière pourrait se trouver impliquée, directement ou indirectement".

For your convenience I attach both the French and the English texts of the Declaration of acceptance as communicated to the Registry by the United Nations Secretariat.

*Annex*SECRETARIAT OF STATE FOR FOREIGN AFFAIRS OF THE
REPUBLIC OF HONDURASDECLARATION ON THE JURISDICTION OF THE
INTERNATIONAL COURT OF JUSTICE

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the

Declaration made on 20 February 1960 concerning Article 36 (2) of the Statute of the International Court of Justice,

Hereby declares:

That it modifies the Declaration made by it on 20 February 1960 as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
 - (a) the interpretation of a treaty;
 - (b) any question of international law;
 - (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
 - (d) the nature and extent of the reparation to be made for the breach of an international obligation.
2. This Declaration shall not apply, however, to any of the following disputes to which the Republic of Honduras is a party:
 - (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
 - (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
 - (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
 - (d) disputes referring to:
 - (i) territorial questions with regard to sovereignty over islands, shoals and reefs; internal waters, bays and the legal status and limits of the territorial sea;
 - (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
 - (iii) the airspace over the territories, waters and zones referred to in this subparagraph.
3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
Secretary of State for Foreign Affairs.

MINISTÈRE DES RELATIONS EXTÉRIEURES
DE LA RÉPUBLIQUE DU HONDURAS

DÉCLARATION SUR LA JURIDICTION DE LA COUR INTERNATIONALE
DE JUSTICE

Par la présente, le Gouvernement de la République du Honduras, dûment autorisé par le Congrès national, en vertu du décret n° 75-86 du 21 mai 1986, à modifier la déclaration faite le 20 février 1960 concernant le paragraphe 2 de l'article 36 du Statut de la Cour internationale de Justice, *déclare*:

Modifier comme suit la déclaration qu'il a faite le 20 février 1960:

- 1) Reconnaître comme obligatoire de plein droit et sans convention spéciale, à l'égard de tout autre Etat acceptant la même obligation, la juridiction de la Cour internationale de Justice sur tous les différends d'ordre juridique ayant pour objet:
 - a) l'interprétation d'un traité;
 - b) tout point de droit international;
 - c) la réalité de tout fait qui, s'il était établi, constituerait la violation d'un engagement international;
 - d) la nature ou l'étendue de la réparation due pour la rupture d'un engagement international.
- 2) La présente déclaration ne s'applique pas, toutefois, aux différends auxquels la République du Honduras serait partie et qui appartiennent aux catégories suivantes:
 - a) les différends pour lesquels les parties ont décidé ou pourraient décider de recourir à un autre moyen ou à d'autres moyens de règlement pacifique des différends;
 - b) les différends ayant trait à des questions relevant de la juridiction interne de la République du Honduras, conformément au droit international;
 - c) les différends ayant trait à des faits ou des situations ayant leur origine dans des conflits armés ou des actes de même nature qui pourraient affecter le territoire de la République du Honduras, et dans lesquels cette dernière pourrait se trouver impliquée, directement ou indirectement;
 - d) les différends ayant trait:
 - i) aux questions territoriales concernant la souveraineté sur les îles, les bancs et les cayes; les eaux intérieures, les golfes et la mer territoriale, leur statut et leurs limites;
 - ii) à tous les droits de souveraineté ou de juridiction concernant la zone contiguë, la zone économique exclusive et le plateau continental, leurs statuts et leurs limites;
 - iii) à l'espace aérien situé au-dessus des territoires, des eaux et des zones décrits dans le présent alinéa d).
- 3) Le Gouvernement de la République du Honduras se réserve également le droit de compléter, modifier ou retirer à tout moment la présente déclaration, ou les réserves qu'elle contient, par notification adressée au Secrétaire général de l'Organisation des Nations Unies.

- 4) La présente déclaration remplace la déclaration formulée par le Gouvernement de la République du Honduras le 20 février 1960.

Fait au palais présidentiel, à Tegucigalpa (D.C.), le 22 mai 1986.

Le président de la République,
(Signé) José AZCONA H.

Le secrétaire d'Etat aux relations extérieures,
(Signé) Carlos LÓPEZ CONTRERAS.

10. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

4 September 1986.

Further to the letter of 29 August 1986 addressed to Your Excellency by the Registrar and enclosing copy of a letter of the same date from the Secretary of Foreign Relations of the Republic of Honduras, I have the honour to transmit to Your Excellency copy of a letter which I have sent to the Agent of the Republic of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

11. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES DES PAYS-BAS

18 septembre 1986.

Me référant au paragraphe V des principes généraux de l'accord du 26 juin 1946 entre le Gouvernement des Pays-Bas et la Cour internationale de Justice, j'ai l'honneur de porter à votre connaissance qu'en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)* le Gouvernement du Nicaragua a désigné comme agent S. Exc. M. Carlos Argüello Gómez, ambassadeur à La Haye. De son côté, le Gouvernement du Honduras a désigné comme agent S. Exc. M. Mario Carías Zapata, ambassadeur à La Haye.

12. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS¹

16 October 1986.

Further to my letter of 3 September 1986 I have the honour to transmit copies of the corrections made to the *English and French translations of the new Honduras Declaration of 22 May 1986* which had been prepared and circulated by the United Nations Secretariat. For your convenience, I am also transmitting the integral text of the translations of the new Declaration into English and French.

¹ A similar communication was sent to the Agent of Nicaragua.

The corrected text of those translations has been communicated to the Registry by the Treaty Section of the United Nations Office of Legal Affairs; it will be reproduced in the Court's *Yearbook 1985-1986*.

13. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

22 October 1986.

I have the honour to inform you that by an Order² dated 22 October 1986, the Court has fixed the following time-limits for the written proceedings on the questions of the jurisdiction of the Court and the admissibility of the Application in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

For the Memorial of the Republic of Honduras: 23 February 1987.

For the Counter-Memorial of the Republic of Nicaragua: 22 June 1987.

The subsequent procedure, including the date for the opening of oral proceedings, is reserved for further decision. I enclose the official sealed copy of the Order.

14. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES DU BRÉSIL³

3 novembre 1986.

Par lettres du 21 août 1986, j'ai eu l'honneur de vous communiquer un exemplaire de chacune des deux requêtes introductives d'instance présentées à la Cour par la République du Nicaragua contre la République du Costa Rica et la République du Honduras, respectivement, dans les affaires des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)* et *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*.

J'ai maintenant l'honneur de vous informer, premièrement, que, par ordonnance du 21 octobre 1986, la Cour a fixé comme suit les délais pour le dépôt des pièces de la procédure écrite dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*.

Pour le mémoire de la République du Nicaragua: le 21 juillet 1987.

Pour le contre-mémoire de la République du Costa Rica: le 21 avril 1988.

Deuxièmement, par ordonnance du 22 octobre 1986, la Cour a fixé comme suit les délais pour le dépôt des pièces de la procédure écrite relatives aux questions de la compétence de la Cour et de la recevabilité de la requête dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*

Pour le mémoire de la République du Honduras: le 23 février 1987.

Pour le contre-mémoire de la République du Nicaragua: le 22 juin 1987.

¹ A communication in the same terms was sent to the Agent of Honduras.

² *I.C.J. Reports 1986*, p. 551.

³ La même communication a été adressée aux Etats suivants: Chili, Colombie, Haïti, Mexique, Pérou, République dominicaine et Uruguay.

Dans les deux cas, la Cour a réservé la suite de la procédure (c'est-à-dire en particulier le déroulement de la procédure orale).

Le texte imprimé des ordonnances vous sera communiqué sous peu.

Enfin, j'ai reçu pour instructions, conformément à l'article 43 du Règlement de la Cour, d'appeler votre attention sur le fait que, dans les deux requêtes, la République du Nicaragua invoque notamment le traité américain de règlement pacifique (pacte de Bogotá) conclu à la neuvième conférence internationale des Etats américains en 1948. Il me faut ajouter cependant que la présente notification ne préjuge aucune décision que la Cour pourrait être appelée à prendre en application de l'article 63 du Statut.

**15. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES
ET DES CULTES DU COSTA RICA**

20 novembre 1986.

J'ai l'honneur de me référer à la lettre du 21 août 1986 par laquelle je vous ai communiqué un exemplaire de la requête introductive d'instance présentée à la Cour par la République du Nicaragua contre la République du Honduras en l'affaire concernant des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, ainsi qu'à l'ordonnance en date du 22 octobre 1986 par laquelle la Cour, tout en réservant la suite de la procédure, a fixé les délais pour la procédure écrite relative aux questions de la compétence de la Cour et de la recevabilité de la requête en cette affaire. Vous trouverez ci-joint un exemplaire de cette ordonnance.

J'ai reçu pour instructions, conformément à l'article 43 du Règlement de la Cour, d'appeler votre attention sur le fait que, dans sa requête, la République du Nicaragua invoque notamment le traité américain de règlement pacifique (pacte de Bogotá) conclu à la neuvième conférence internationale des Etats américains en 1948. Il me faut ajouter cependant que la présente notification ne préjuge aucune décision que la Cour pourrait être appelée à prendre en application de l'article 63 de son Statut.

16. L'AGENT DU HONDURAS AU GREFFIER

23 février 1987.

J'ai l'honneur, dans le délai fixé par l'ordonnance rendue par la Cour le 22 octobre 1986, de déposer au Greffe de la Cour le texte original et deux copies certifiées conforme du mémoire du Gouvernement du Honduras, accompagné d'un volume d'annexes, dans l'affaire relative à des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)*.

Je dépose aussi cent vingt-cinq exemplaires (mémoire et annexes) requis par le Greffe conformément à l'article 52 du Règlement.

Finalement je vous remets un exemplaire qui contient les annexes dont les textes figurent traduits à l'une des langues officielles de la Cour dans le volume des annexes.

(Signé) Mario CARÍAS.

**17. THE REGISTRAR TO THE AGENT
OF HONDURAS**

23 February 1987.

I have the honour to acknowledge receipt of the Memorial of the Republic of Honduras on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and the annexes thereto, filed by you in the Registry today, together with a signed copy for communication to the other Party and the additional copies required under Article 52, paragraph 1, of the Rules of Court. Also deposited was a volume of the original Spanish texts of a number of documents of which translations, or translations of extracts, were included in the annexes to the Memorial, and a video-cassette of a television interview, a translation of an extract from which forms Annex 28.

(Signed) Eduardo VALENCIA-OSPINA.

18. THE REGISTRAR TO THE AGENT OF NICARAGUA

23 February 1987.

I have the honour to transmit to you herewith a signed copy of the Memorial of the Republic of Honduras on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, together with the annexes thereto, filed in the Registry today. Also deposited in the Registry was a volume of the original Spanish texts of a number of documents of which translations, or translations of extracts, were included in the annexes to the Memorial, and a video-cassette of a television interview, a translation of an extract from which forms Annex 28.

19. THE REGISTRAR TO THE AGENT OF NICARAGUA

27 February 1987.

I have the honour to refer to my letter of 23 February 1987 with which I transmitted to Your Excellency a signed copy of the Memorial of Honduras on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and the annexes thereto. Annex 29, document D, consists of an English translation of a resolution of the OAS General Assembly (ag/cg doc. 23/86). The Agent of Honduras has deposited a copy of the original Spanish text of this resolution; he has however also supplied a copy of the official English text issued by the OAS Secretariat, and I am enclosing a copy of this latter text¹ for your convenience.

¹ See I, p. 175.

20. THE REGISTRAR TO THE AGENT OF HONDURAS

27 February 1987.

On a preliminary examination of the Memorial on questions of jurisdiction and admissibility filed by Your Excellency on 23 February 1987 in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and the annexes thereto, I note that Annex 8 consists of a translation of an extract from a Report from the Minister for Foreign Relations to the National Congress of Honduras dated 15 June 1983, and this extract contains two sections headed respectively "A) The situation in Nicaragua and its repercussion on Honduras and the region" and "B) The negotiations within the Contadora Group". The corresponding Spanish text, deposited by you pursuant to Article 50, paragraph 2, and Article 51, paragraph 3, of the Rules of Court, contains the text corresponding to section A but only the title of section B (pp. 51-57 of the original Spanish document). On the assumption that section B is also regarded as relevant in support of the contentions in the Memorial (cf. para. 1.22 thereof), I should be obliged if you would in due course deposit the original Spanish text.

Should any further queries of this kind arise in the course of further examination of the documents, I shall not fail to bring them to Your Excellency's attention. I enclose for your information a copy of a letter I have today sent to the Agent of Nicaragua.

21. L'AGENT DU HONDURAS AU GREFFIER

2 mars 1987.

J'ai l'honneur de vous accuser réception de votre aimable lettre 77384 en date du 27 février se référant à l'omission par erreur d'une partie de l'annexe 8 en original espagnol.

Vous trouverez ci-joint cette partie B¹ de l'annexe 8 que vous demandez et qui par regrettable erreur n'avait pas été déposée avec le reste des documents.

22. THE DEPUTY-REGISTRAR TO THE AGENT
OF NICARAGUA

23 June 1987.

I have the honour to acknowledge receipt of the Counter-Memorial² of the Republic of Nicaragua on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and of a volume of annexes thereto, filed by Your Excellency in the Registry yesterday, together with a signed copy for communication to the

¹ Non reproduite.

² See I, pp. 279-509.

other Party and 18 of the additional copies required under Article 52 (1) of the Rules of Court.

I beg further to remind you that the provision of certified texts in one of the Court's official languages of the documents annexed in Spanish is required by Article 51 (3) of the Rules of Court. I venture also to request that you provide more readily legible copies of Annex 21.

(Signed) Bernard NOBLE.

23. DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

23 June 1987.

I have the honour to transmit to Your Excellency a certified copy of the Counter-Memorial on questions of jurisdiction and admissibility filed yesterday in the Registry by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, together with a volume of annexes thereto.

**24. THE AGENT OF COSTA RICA IN THE CASE CONCERNING
BORDER AND TRANSBORDER ARMED ACTIONS (NICARAGUA V. COSTA RICA)
TO THE REGISTRAR**

22 June 1987.

In my capacity as Agent of the Republic of Costa Rica in the case before that Court *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and in reference to the case 1986 General List No. 74 — *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, I respectfully request that my Government may have available copies of the pleadings and documents annexed presented by the parties during the preliminary objections stage of said case.

I am confident that Honduras, as well as Nicaragua will not have any objections to the above request.

(Signed) Edgar UGALDE.

**25. THE DEPUTY-REGISTRAR TO THE AGENT OF COSTA RICA IN THE CASE
CONCERNING BORDER AND TRANSBORDER ARMED ACTIONS
(NICARAGUA V. COSTA RICA)**

23 June 1987.

I acknowledge receipt of the letter of 22 June 1987 in which Your Excellency has requested that the pleadings and annexed documents presented by the Parties in the current phase of the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* be made available to your

Government and have the honour to advise you that this request will be considered in accordance with the procedure laid down by Article 53 (1) of the Rules of Court.

We shall not fail to inform you as soon as a decision is taken in the matter.

26. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS¹

23 June 1987.

I have the honour to transmit to Your Excellency a copy of a letter dated 22 June 1987 whereby the Agent of Costa Rica in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* has requested that the pleadings and annexed documents presented by the Parties in the current phase of the case between Nicaragua and Honduras be made available to his Government.

It would be appreciated if the view of your Government on this request could be communicated to the Court at your earliest convenience, for the purposes of the application of Article 53 (1) of the Rules of Court.

27. THE AGENT OF NICARAGUA TO THE REGISTRAR

29 June 1987.

I have the honour to refer to the letter dated 23 June 1987 whereby the Deputy-Registrar requests the view of my Government on the request made by the Agent of Costa Rica that the pleadings and annexes presented by the Parties in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* be made available to his Government.

After consideration, my Government has no objection to this specific request by the Government of Costa Rica.

(Signed) Carlos ARGÜELLO G.

28. THE PRINCIPAL LEGAL SECRETARY OF THE COURT TO THE AGENT OF NICARAGUA

1 July 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of 29 June 1987, informing me that the Government of Nicaragua has no objection to copies of the pleadings and annexed documents in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* being furnished to the Government of Costa Rica, which has requested such communi-

¹ A communication in the same terms was sent to the Agent of Nicaragua.

cation in accordance with Article 53 of the Rules of Court. I shall not fail to inform you of the decision taken in due course by the Court or the President on that request.

(Signed) H. W. A. THIRLWAY.

29. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

13 July 1987.

I have the honour to confirm that, as the President of the Court indicated to Your Excellency at the meeting held on 30 June 1987 with the Agents of the Parties to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, the President has fixed Tuesday 20 October 1987 at 10 a.m. as the date for the opening of the oral proceedings on questions of jurisdiction and admissibility in that case. This decision was taken pursuant to Article 54, paragraphs 1 and 3, of the Rules of Court.

30. THE REGISTRAR TO THE AGENT OF NICARAGUA

20 July 1987.

I have the honour to refer to my letter of 10 November 1986, with which I sent Your Excellency a note concerning the printing of pleadings, for guidance in the preparation of the Counter-Memorial of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. In that letter I mentioned that the number of copies of pleadings required by the Registry in this case, pursuant to Article 52, paragraph 1, of the Rules of Court, had been fixed at 125.

When the original Counter-Memorial of Nicaragua was filed on 22 June 1987, it was accompanied by the certified copy for the other Party required by Article 52 of the Rules, but by only 18 additional copies. It was understood that the copies required by the Registry would be supplied very shortly, as soon as the necessary binding work could be done, and it was on this understanding that the Deputy-Registrar accepted the pleading as duly filed, notwithstanding the absence of strict compliance with Article 52. At the same time, it was noted that a number of the Annexes to the Counter-Memorial were in the original Spanish only, no translation being supplied as required by Article 51, paragraph 3, of the Rules of Court. This point was in fact adverted to in Your Excellency's letter of 23 June 1987.

Since four weeks have now passed without the required number of copies of the Counter-Memorial being filed, or the necessary translations being supplied, I consider it my duty to remind Your Excellency of the matter. Apart from the complications caused to the work of the Registry, in particular the translation of the pleading into French, the shortage of copies prevents me from supplying the other Party with the additional copies it requires for the preparation of its oral argument, and since the counsel instructed by Hondu-

¹ A communication in the same terms was sent to the Agent of Honduras.

ras may not necessarily be able to read Spanish, their work is also hindered by the absence of translations. This is a situation which would appear to conflict with the principle of the equality of the Parties.

I shall therefore be obliged if you will make arrangements to supply the missing translations and to file the additional copies as soon as possible, if necessary in instalments.

**31. THE REGISTRAR TO THE SECRETARY GENERAL OF
THE ORGANIZATION OF AMERICAN STATES**

21 July 1987.

I have the honour to inform you that in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, brought before the Court by Nicaragua, one of the bases of jurisdiction for the Court relied on by Nicaragua is Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) concluded at the Ninth International Conference of American States in 1948. Honduras has however contended, *inter alia*, that Article XXXI of that Treaty cannot be invoked as a basis of jurisdiction independently of Article XXXII, and that the latter Article precludes any unilateral application to the Court except on certain conditions which, in the view of Honduras, are not satisfied in this case. The proceedings therefore appear to raise questions of construction of the Pact of Bogotá.

The Court has directed that the initial pleadings in the case be directed to questions of jurisdiction and admissibility, and those pleadings have now been filed, on 20 October 1987 oral proceedings will open, with a view to a judgment being given by the Court on those questions.

Article 34, paragraph 3, of the Statute of the Court provides as follows:

“3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.”

The Pact of Bogotá appears to fall in the category of conventions contemplated by this Article, since it provides in its preamble as follows:

“In the name of their peoples, the Governments represented at the Ninth International Conference of American States have resolved, *in fulfilment of Article XXIII of the Charter of the Organization of American States*, to conclude the following Treaty: . . .” (Emphasis added.)

In these circumstances the Court has instructed me to communicate to the Organization of American States copies of all the written proceedings. I accordingly have the honour to enclose herewith copies of the Application instituting proceedings, the Memorial submitted by the Government of Honduras, and the Counter-Memorial submitted by the Government of Nicaragua, together with the annexes to those pleadings.

This instruction was given pursuant to Article 69, paragraph 3, of the Rules of Court, which is in the following terms:

“3. In the circumstances contemplated by Article 34, paragraph 3, of the Statute, the Registrar, on the instructions of the Court, or of the

President if the Court is not sitting, shall proceed as prescribed in that paragraph. The Court, or the President if the Court is not sitting, may, as from the date on which the Registrar has communicated copies of the written proceedings and after consulting the chief administrative officer of the public international organization concerned, fix a time-limit within which the organization may submit to the Court its observations in writing. These observations shall be communicated to the parties and may be discussed by them and by the representative of the said organization during the oral proceedings."

The Vice-President of the Court, Acting President, has directed me further to ask you to inform me as soon as possible whether the Organization of American States would wish to submit to the Court observations on the matter in accordance with Article 69, paragraph 3, of the Rules of Court, and to inform you that he has fixed 20 September 1987 as the time-limit within which such observations may be filed.

Furthermore, I should inform you that Nicaragua has also instituted proceedings against the Republic of Costa Rica (*Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*), and one of the bases of jurisdiction relied on in these proceedings also is Article XXXI of the Pact of Bogotá. However, the Government of Costa Rica has not yet indicated whether or not it contests the claim of Nicaragua to the existence of jurisdiction on that basis, and it therefore appears premature to say whether a question of construction of Article XXXI will arise in that case as well. I enclose for your information a copy of the Application in that case and of the Orders made by the Court on both cases.

Finally, for the sake of completeness, I should also draw your attention to the fact that in its Applications in these two cases Nicaragua asserts that Honduras and Costa Rica have committed breaches of the Charter of the OAS and of the Pact of Bogotá. These allegations may also raise questions of construction of those two instruments, but, in the proceedings brought against Honduras at least, the Court will only be called upon to examine such allegations if it is satisfied that it has jurisdiction, a point which, as indicated, forms the subject of the initial stage of those proceedings.

32. THE REGISTRAR TO THE AGENT OF NICARAGUA

21 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter I have today sent to the Secretary General of the Organization of American States, referring to the cases concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

33. THE REGISTRAR TO THE AGENT OF HONDURAS

21 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter I have today sent to the Secretary General of the Organization of

American States, referring to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

**34. THE REGISTRAR TO THE AGENT OF COSTA RICA IN THE CASE
CONCERNING *BORDER AND TRANSBORDER ARMED ACTIONS*
(NICARAGUA V. COSTA RICA)**

21 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter I have today sent to the Secretary General of the Organization of American States. This letter relates primarily to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, but as you will observe, reference is also made to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

35. L'AGENT DU HONDURAS AU GREFFIER

26 juillet 1987.

J'ai l'honneur de vous exprimer me référant à votre aimable communication en date du 23 juin relative à la demande du Costa Rica pour que lui soient communiquées les pièces de la procédure dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, dans sa phase actuelle, que le Gouvernement du Honduras n'a pas d'objection à ce que nos pièces écrites soient communiquées au Costa Rica.

**36. THE SECRETARY GENERAL OF THE ORGANIZATION OF
AMERICAN STATES TO THE REGISTRAR**

29 July 1987.

I am pleased to acknowledge receipt of your note 78281, dated July 21, 1987, enclosing a copy of all the written proceedings on the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* brought before the International Court of Justice by Nicaragua.

As to whether or not the Organization of American States wishes to submit to the Court observations on the matter, I am of the opinion that, in this case, the Secretary General would not have the authority to make such observations.

Furthermore, the convening of the Permanent Council of the Organization on this matter would require that each Member State be provided with copies of all the written proceedings on the case which may contravene the Rules of the Court.

On the other hand, it is my understanding that the Court has already notified all the other parties to the American Treaty on Pacific Settlement

(Pact of Bogotá) on the fact that these proceedings appear to raise questions of the construction of this Pact.

(Signed) João Clemente BAENA SOARES.

37. THE REGISTRAR TO THE AGENT OF HONDURAS

30 July 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of 26 July 1987, received in the Registry today, informing me that the Government of Honduras has no objection to copies of the pleadings and annexed documents in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* being furnished to the Government of Costa Rica, which has requested such communication in accordance with Article 53 of the Rules of Court. I shall not fail to inform you of the decision taken in due course by the President on that request.

38. THE REGISTRAR TO THE AGENT OF HONDURAS¹

31 July 1987.

I have the honour to inform Your Excellency that the President of the Court, in exercise of the powers conferred upon him by Article 53 (1) of the Rules of Court and after ascertaining the views of the Parties, has decided that copies of the pleadings and documents annexed presented by the Parties in the current phase of the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* be made available to the Government of Costa Rica as requested by that Government's Agent before the Court in a letter dated 22 June 1987.

**39. THE REGISTRAR TO THE AGENT OF COSTA RICA IN THE CASE
CONCERNING BORDER AND TRANSBORDER ARMED ACTIONS
(NICARAGUA V. COSTA RICA)**

31 July 1987.

I have the honour to inform Your Excellency that the President of the Court, in exercise of the powers conferred upon him by Article 53 (1) of the Rules of Court and after ascertaining the views of the Parties, has decided that copies of the pleadings and documents annexed presented by the Parties in the current phase of the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* be made available to the Government of Costa Rica as requested by Your Excellency in a letter dated 22 June 1987. The aforementioned copies are being despatched separately to the Embassy of Costa Rica at The Hague.

¹ A communication in the same terms was sent to the Agent of Nicaragua.

40. THE REGISTRAR TO THE AGENT OF NICARAGUA

3 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 29 July 1987 and handed to me today by the Legal Adviser of the Organization of American States containing the reply of the Secretary General of the OAS to my letter of 21 July 1987 referring to the cases concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

41. THE REGISTRAR TO THE AGENT OF HONDURAS

3 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 29 July 1987 and handed to me today by the Legal Adviser of the Organization of American States containing the reply of the Secretary General of the OAS to my letter of 21 July 1987 referring to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

42. LES AGENTS DU HONDURAS ET DU NICARAGUA AU GREFFIER

13 août 1987.

Nous avons l'honneur, nous référant à la phase orale de la procédure dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)* (*compétence et recevabilité*), de vous demander de bien vouloir transmettre à Monsieur le Président de la Cour internationale de Justice l'accord signé le 7 août 1987 par les présidents des Républiques du Honduras et du Nicaragua dont le texte espagnol est le suivant (traduction française non officielle ci-jointe):

«Los Presidentes de la República de Honduras y de Nicaragua, en la convicción de que es necesario fortalecer este plan de pacificación regional, mediante la adopción de medidas de restablecimiento de la confianza recíproca, han acordado instruir a sus respectivos Secretarios de Relaciones Exteriores, para que soliciten a la Corte Internacional de Justicia, que tenga a bien aceptar el diferimiento de la celebración de la fase oral del Juicio sobre Competencia, que inter alia, se ventila ante aquel Alto Tribunal, por un período de tres meses, en el entendimiento que dicha situación judicial será examinada nuevamente por ellos con motivo de la Reunión de Presidentes Centroamericanos que tendrá lugar en el término de ciento cincuenta días conforme el Compromiso establecido en este plan, con el fin de convenir el desistimiento del recurso a la acción judicial internacional sobre la situación Centroamericana.

Suscrito en ocasión de la Reunión Cumbre Esquipulas II, en la ciudad de Guatemala, el siete de agosto de mil novecientos ochenta y siete.

José AZCONA HOYO,
Presidente de la República
de Honduras.

Daniel ORTEGA SAAVEDRA,
Presidente de la República
de Nicaragua.»

Annexe

(Traduction non officielle)

Les présidents de la République du Honduras et du Nicaragua, convaincus de la nécessité de fortifier ce plan de pacification régionale, en adoptant des mesures de rétablissement de la confiance réciproque, sont convenus d'instruire leurs secrétaires de relations extérieures, pour qu'ils demandent à la Cour internationale de Justice de bien vouloir accepter l'ajournement de l'ouverture de la procédure orale dans sa phase sur la compétence qui, *inter alia*, se déroule devant cette Haute Cour, pour une période de trois mois, étant entendu que cette situation judiciaire sera examinée de nouveau par eux à l'occasion de la réunion des présidents d'Amérique centrale qui aura lieu dans le délai de cent cinquante jours conformément à l'engagement pris dans ce plan, afin de convenir le désistement du recours à l'action judiciaire internationale sur la situation en Amérique centrale.

Signé à l'occasion de la réunion au sommet d'Esquipulas II, en la ville de Guatemala, le sept août mil neuf cent quatre-vingt-sept.

José AZCONA HOYO,
président de la République
du Honduras.

Daniel ORTEGA SAAVEDRA,
président de la République
du Nicaragua.

43. LE GREFFIER À L'AGENT DU NICARAGUA¹

13 août 1987.

J'ai l'honneur d'accuser réception de la lettre conjointe en date du 13 août 1987 par laquelle, les agents du Honduras et du Nicaragua, se référant à la phase orale de la procédure en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)*, ont bien voulu me communiquer, pour transmission au Président de la Cour, le texte en langue originale espagnole — accompagné d'une traduction française non officielle — d'un accord signé le 7 août 1987, à l'occasion de la réunion au sommet d'Esquipulas II, par S. Exc. M. le président de la République du Honduras et S. Exc. M. le président de la République du Nicaragua, visant à solliciter l'ajournement, pour une période de trois mois, de l'ouverture de la procédure orale en l'affaire susvisée et dans lequel il est précisé que

«cette situation judiciaire sera examinée de nouveau par eux à l'occasion de la réunion des présidents d'Amérique centrale qui aura lieu dans le délai de cent cinquante jours conformément à l'engagement

¹ La même communication a été adressée à l'agent du Honduras.

pris dans [le] plan [de pacification régionale], afin de convenir le désistement du recours à l'action judiciaire internationale sur la situation en Amérique centrale». [Traduction française non officielle des Parties.]

J'ai en outre l'honneur de vous faire savoir que le Président de la Cour, auquel le texte de l'accord susmentionné a été transmis par mes soins, a décidé, en application de l'article 54 du Règlement de la Cour, de prononcer le renvoi de l'ouverture de la procédure orale en l'affaire à une date ultérieure qui sera fixée après consultation des agents des Parties.

Une communication identique est adressée à M. l'agent du Honduras.

44. THE REGISTRAR TO THE AGENT OF NICARAGUA

13 August 1987.

I have the honour to acknowledge receipt of 100 additional copies of the Counter-Memorial of the Republic of Nicaragua on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and of the volume of Annexes thereto.

I note that the volume of Annexes incorporates English translations of Annexes 7, 8, 13, 15, 17, 18, 20 and 25. No translations, however, have yet been received of the Spanish-language documents contained in Annexes 19, 22 and 24. Versions in one of the official languages of the Court of these three documents are still, therefore, required in order to ensure compliance with Article 51 (3) of the Rules of Court. I shall therefore be obliged if you will arrange to supply these, in the same number of copies as the translations already filed, as soon as possible.

45. THE REGISTRAR TO THE AGENT OF HONDURAS

14 August 1987.

Further to my letter of 23 June 1987, I have the honour to send Your Excellency some additional copies of the Annexes to the Counter-Memorial on questions of jurisdiction and admissibility filed by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

I also transmit herewith a copy of a letter which I addressed to the Agent of Nicaragua on 13 August 1987. As mentioned in that letter, you will note that certain English translations absent from the certified copy transmitted to you on 13 June have been incorporated in the additional copies now provided.

46. THE REGISTRAR TO THE AGENT OF NICARAGUA

18 August 1987.

I have the honour to draw Your Excellency's attention to the document of which a copy has been filed as Annex 25 to the Counter-Memorial of your

Government in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and which is described in the Table of Contents at the end of the Counter-Memorial as a "Note from Honduras to United Nations, 18 April 1986 [sic]" whereas in paragraph 259 of the same pleading it is referred to as a "Honduran Note dated 18 April 1984 [sic] to the Secretary-General of the United Nations".

In fact the text in Annex 25 appears to be that of an undated letter from the Minister for External Relations of Honduras to the "General Secretary" of the Organization of American States. Its contents do not include the material which paragraph 259 would lead one to expect.

I would therefore appreciate it if you would be so good as to identify the document which it was intended to adduce under Annex 25 in support of your Government's contentions and, if the text initially supplied does not meet the case, to provide and certify a copy of the correct text, together if need be with a certified translation thereof into an official language of the Court.

47. L'AGENT DU HONDURAS AU GREFFIER

18 août 1987.

J'ai l'honneur, me référant à la note que nous vous avons adressée conjointement avec l'agent du Nicaragua, le 13 août dernier, de vous remettre ci-joint: «La procédure pour l'établissement d'une paix ferme et durable en Amérique centrale», texte signé à Guatemala le 7 août 1987.

Je vous saurais gré de bien vouloir porter ce texte à la connaissance des membres de la Cour.

Je saisis cette occasion pour renouveler, à Monsieur le Greffier, les assurances de ma haute considération.

Annexe

Preambulo

Los Presidentes de las Repúblicas de Guatemala, El Salvador, Honduras, Nicaragua y Costa Rica, reunidos en la ciudad de Guatemala el 6 y 7 de agosto de 1987, alentados por la visionaria y permanente voluntad de Contadora y el Grupo de Apoyo en favor de la paz; robustecidos por el apoyo constante de todos los gobernantes y pueblos del mundo, de sus principales organizaciones internacionales y en especial de la Comunidad Económica Europea y de Su Santidad Juan Pablo Segundo; inspirador en Esquipulas I, y juntos en Guatemala para dialogar en torno al plan de paz presentado por el Gobierno de Costa Rica, hemos acordado:

- asumir plenamente el reto histórico de forjar un destino de paz para Centro América;
- comprometernos a luchar por la paz y erradicar la guerra;
- hacer prevalecer el diálogo sobre la violencia y la razón sobre los rencores;
- dedicar a las juventudes de América Central, cuyas legítimas aspiraciones de paz y justicia social, de libertad y reconciliación, han sido frustradas durante muchas generaciones, estos esfuerzos de paz;
- colocar al Parlamento Centroamericano como símbolo de libertad e independencia de la reconciliación a que aspiramos en Centro América.

Pedimos respeto y ayuda a la comunidad internacional para nuestros esfuerzos. Tenemos caminos centroamericanos para la paz y el desarrollo, pero necesitamos ayuda para hacerlos realidad. Pedimos un trato internacional que garantice el desarrollo para que la paz que buscamos sea duradera. Reiteramos con firmeza que Paz y Desarrollo son inseparables.

Agradecemos al Presidente Vinicio Cerezo Arévalo y al noble pueblo de Guatemala haber sido la casa de esta reunión. La generosidad del mandatario y el pueblo guatemalteco resultaron decisivos para el clima en que se adoptaron los acuerdos de paz.

Procedimiento para Establecer la Paz Firme y Duradera en Centroamerica

Los Gobiernos de las Repúblicas de Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua, empeñados en alcanzar los objetivos y desarrollar los principios establecidos en la Carta de las Naciones Unidas, la Carta de la Organización de los Estados Americanos, el Documento de Objetivos, el Mensaje de Caraballeda para la Paz, la Seguridad y la Democracia en América Central, la Declaración de Guatemala, el Comunicado de Punta del Este, el Mensaje de Panamá, la Declaración de Esquipulas, y el proyecto de Acta de Contadora para la Paz y la Cooperación en Centroamérica del 6 de junio de 1986, han convenido en el siguiente procedimiento para establecer la paz firme y duradera en Centroamérica.

1. Reconciliación Nacional

a) Diálogo

Realizar urgentemente en aquellos casos donde se han producido profundas divisiones dentro de la sociedad, acciones de reconciliación nacional que permitan la participación popular, con garantía plena, en auténticos procesos políticos de carácter democrático, sobre bases de justicia, libertad y democracia y, para tal efecto, crear los mecanismos que permitan, de acuerdo con la ley, el diálogo con los grupos opositores.

A esta fin, los Gobiernos correspondientes iniciarán el diálogo con todos los grupos desarmados de oposición política interna y con aquellos que se hayan acogido a la Amnistía.

b) Amnistía

En cada país centroamericano, salvo en aquellos en donde la Comisión Internacional de Verificación y Seguimiento determine que no es necesario, se emitirán decretos de amnistía que deberán establecer todas las disposiciones que garanticen la inviolabilidad de la vida, la libertad en todas sus formas, los bienes materiales y la seguridad de las personas a quienes sean aplicables dichos decretos. Simultáneamente a la emisión de los decretos de amnistía, las fuerzas irregulares del respectivo país, deberán poner en libertad a todas aquellas personas que se encuentren en su poder.

c) Comisión Nacional de Reconciliación

Para la verificación del cumplimiento de los compromisos que los cinco Gobiernos centroamericanos contraen con la firma del presente documento, en materia de amnistía, cese del fuego, democratización y elecciones libres, se creará una Comisión Nacional de Reconciliación que tendrá las funciones de constatar la vigencia real del proceso de reconciliación nacional,

así como el respeto irrestricto de todos los derechos civiles y políticos de los ciudadanos centroamericanos garantizados en este mismo documento.

La Comisión Nacional de Reconciliación estará integrada por un delegado propietario y un suplente del Poder Ejecutivo; un titular y un suplente sugerido por la Conferencia Episcopal y escogido por el Gobierno de una terna de Obispos que deberá ser presentada dentro del plazo de quince días después de recibida la invitación formal. Esta invitación la formularán los gobiernos dentro de los cinco días hábiles siguientes a la firma de este documento. El mismo procedimiento de terna se utilizará para la selección de un titular y un suplente de los partidos políticos de oposición legalmente inscritos. La terna deberá ser presentada en el mismo plazo anterior. Cada Gobierno Centroamericano escogerá, además, para integrar dicha Comisión, a un ciudadano notable que no pertenezca ni al gobierno ni al partido de gobierno, y a su respectivo suplente. El acuerdo o decreto en que se integre la respectiva Comisión Nacional, será comunicado de inmediato a los otros Gobiernos Centroamericanos.

2. Exhortación al Cese de Hostilidades

Los gobiernos hagan una exhortación vehemente para que, en los Estados del área que actualmente sufren la acción de grupos irregulares o insurgentes, se concierte el cese de las hostilidades. Los gobiernos de dichos Estados se comprometen a realizar todas las acciones necesarias para lograr un efectivo cese del fuego dentro del marco constitucional.

3. Democratización

Los gobiernos se comprometen a impulsar un auténtico proceso democrático pluralista y participativo que implique la promoción de la justicia social, el respeto de los Derechos Humanos, la soberanía, la integridad territorial de los Estados y el derecho de todas las naciones a determinar libremente y sin injerencias externas de ninguna clase, su modelo económico, político y social, y realizarán, de manera verificable, las medidas conducentes al establecimiento y, en su caso, al perfeccionamiento de sistemas democráticos, representativos y pluralistas que garanticen la organización de partidos políticos y la efectiva participación popular en la toma de decisiones y aseguren el libre acceso de las diversas corrientes de opinión a procesos electorales honestos y periódicos, fundados en la plena observancia de los derechos ciudadanos. Para efectos de verificar la buena fe en el desarrollo de este proceso de democratización, se entenderá que:

- a) Deberá existir completa libertad para la televisión, la radio y la prensa. Esta completa libertad comprenderá la de abrir y mantener en funcionamiento medios de comunicación para todos los grupos ideológicos y para operar esos medios sin sujeción a censura previa.
- b) Deberá manifestarse el pluralismo político partidista total. Las agrupaciones políticas tendrán, en ese aspecto, amplio acceso a los medios de comunicación, pleno disfrute de los derechos de asociación y de las facultades de realizar manifestaciones públicas en el ejercicio irrestricto de la publicidad oral, escrita y televisiva, así como la libre movilidad para los miembros de los partidos políticos en función proselitista.
- c) Asimismo, los Gobiernos Centroamericanos que tengan en vigencia el estado de excepción, sitio o emergencia, deberán derogarlo, haciendo

efectivo el estado de derecho con plena vigencia de todas las garantías constitucionales.

4. Elecciones Libres

Creadas las condiciones inherentes a toda democracia, deberán celebrarse elecciones libres, pluralistas y honestas.

Como expresión conjunta de los Estados Centroamericanos para encontrar la reconciliación y la paz duradera para sus pueblos, se celebrarán elecciones para la integración del Parlamento Centroamericano, cuya creación se propuso mediante la "Declaración de Esquipulas", del 25 de mayo de 1986.

A los propósitos anteriores, los mandatarios expresaron su voluntad de avanzar en la organización de dicho Parlamento, a cuyo efecto la Comisión *Preparatoria del Parlamento Centroamericano deberá concluir sus deliberaciones y entregar a los Presidentes Centroamericanos el respectivo proyecto de Tratado dentro de 150 días.*

Estas elecciones se realizarán simultáneamente en todos los países de América Central en el primer semestre de 1988, en la fecha que oportunamente convendrán los Presidentes de los Estados Centroamericanos. Estarán sujetas a la vigilancia de los órganos electorales correspondientes, comprometiéndose los respectivos Gobiernos a extender invitación a la Organización de los Estados Americanos y a las Naciones Unidas, así como a Gobiernos de terceros Estados, para que envíen observadores que deberán constatar que los procesos electorales se han regido por las más estrictas normas de igualdad de acceso de todos los partidos políticos a los medios de comunicación social, así como por amplias facilidades para que realicen manifestaciones públicas y todo otro tipo de propaganda proselitista.

A efecto de que las elecciones para integrar el Parlamento Centroamericano se celebren dentro del plazo que se señala en este apartado, el tratado constitutivo correspondiente deberá ser sometido a la aprobación o ratificación en los cinco países.

Luego de efectuadas las elecciones para integrar el Parlamento Centroamericano, deberán realizarse, en cada país, con observadores internacionales e iguales garantías, dentro de los plazos establecidos y los calendarios que deberán proponerse de acuerdo a las actuales Constituciones Políticas, elecciones igualmente libres y democráticas para el nombramiento de representantes populares en los municipios, los Congresos y Asambleas Legislativas y la Presidencia de la República.

5. Cese de la Ayuda a las Fuerzas Irregulares o a los Movimientos Insurreccionales

Los Gobiernos de los cinco Estados Centroamericanos solicitarán a los Gobiernos de la región y a los Gobiernos extrarregionales que, abierta o veladamente proporcionan ayuda militar, logística, financiera, propagandística, en efectivos humanos, armamentos, municiones y equipo a fuerzas irregulares o movimientos insurreccionales, que cesen esa ayuda, como un elemento indispensable para lograr la paz estable y duradera en la región.

No queda comprendida en lo anterior la ayuda que se destine a repatriación o, en su defecto, reubicación y asistencia necesaria para la reintegración a la vida normal de aquellas personas que hayan pertenecido a dichos grupos o fuerzas. Igualmente solicitarán a las fuerzas irregulares y a los grupos insurgentes que actúan en América Central, abstenerse de recibir esa ayuda, en aras de un auténtico espíritu latinoamericano. Estas peticiones se harán en

cumplimiento de lo establecido en el Documento de Objetivos en cuanto a eliminar el tráfico de armas, intrarregional o proveniente de fuera de la región, destinado a personas, organizaciones o grupos que intenten desestabilizar a los gobiernos de los países centroamericanos.

6. No Uso del Territorio para Agredir a Otros Estados

Los cinco países que suscriben este documento reiteran su compromiso de impedir el uso del propio territorio y no prestar ni permitir apoyo militar logístico a personas, organizaciones o grupos que intenten desestabilizar a los Gobiernos de los Países de Centroamérica.

7. Negociaciones en Materia de Seguridad, Verificación, Control y Limitación de Armamento

Los Gobiernos de los cinco Estados centroamericanos, con la participación del Grupo de Contadora, en ejercicio de su función mediadora, proseguirán las negociaciones sobre los puntos pendientes de acuerdo, en materia de seguridad, verificación y control en el proyecto de Acta de Contadora para la Paz y la Cooperación en Centroamérica.

Estas negociaciones abarcarán también medidas para el desarme de las fuerzas irregulares que están dispuestas a acogerse a los decretos de amnistía.

8. Refugiados y Desplazados

Los Gobiernos Centroamericanos se comprometen a atender con sentido de urgencia los flujos de refugiados y desplazados que la crisis regional ha provocado, mediante protección y asistencia, especialmente en los aspectos de salud, educación, trabajo y seguridad, así como a facilitar su repatriación, reasentamiento o reubicación, siempre y cuando sea de carácter voluntario y se manifieste individualmente.

También se comprometen a gestionar ante la Comunidad Internacional ayuda para los refugiados y desplazados centroamericanos, tanto en forma directa, mediante convenios bilaterales o multilaterales, como por medio del Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR) y otros organismos y agencias.

9. Cooperación, Democracia y Libertad para la Paz y el Desarrollo

En el clima de libertad que garantiza la democracia, los países de Centroamérica adoptarán los acuerdos que permitan acelerar el desarrollo, para alcanzar sociedades más igualitarias y libres de la miseria.

La consolidación de la democracia implica la creación de un sistema de bienestar y justicia económica y social. Para lograr estos objetivos los gobiernos gestionarán conjuntamente un apoyo económico extraordinario de la Comunidad Internacional.

10. Verificación y Seguimiento Internacional

a) Comisión Internacional de Verificación y Seguimiento

Se creará una Comisión Internacional de Verificación y Seguimiento conformada por los Secretarios Generales, o sus representantes, de la Organización de los Estados Americanos y de las Naciones Unidas, así como por los Cancilleres de América Central, del Grupo de Contadora y del Grupo de Apoyo. Esta Comisión tendrá las funciones de verificación y seguimiento del cumplimiento de los compromisos contenidos en este documento.

b) *Respaldo y facilidades a los mecanismos de reconciliación y de verificación y seguimiento*

Con el objeto de fortalecer la gestión de la Comisión Internacional de Verificación y Seguimiento, los Gobiernos de los cinco Estados centroamericanos emitirán declaraciones de respaldo a su labor.

A estas declaraciones podrán adherirse todas las naciones interesadas en promover la causa de la libertad, la democracia y la paz en Centroamérica.

Los cinco Gobiernos brindarán todas las facilidades necesarias para el cabal cumplimiento de las funciones de verificación y seguimiento de la Comisión Nacional de Reconciliación de cada país y de la Comisión Internacional de Verificación y Seguimiento.

11. Calendario de Ejecucion de Compromisos

Dentro del plazo de quince días a partir de la firma de este documento, los Cancilleres de Centroamérica se reunirán en calidad de Comisión Ejecutiva para reglamentar, impulsar y viabilizar el cumplimiento de los acuerdos contenidos en el presente documento, y organizar las comisiones de trabajo para que a partir de esta fecha, se inicien los procesos que conduzcan al cumplimiento de los compromisos contraídos dentro de los plazos estipulados, por medio de consultas, gestiones y demás mecanismos que se estimen necesarios.

A los 90 días, contados a partir de la fecha de la firma de este documento, entrarán a regir simultáneamente en forma pública los compromisos relacionados con amnistía, cese del fuego, democratización, cese de la ayuda a las fuerzas irregulares o a los movimientos insurreccionales y no uso del territorio para agredir a otros Estados, como se define en el presente documento.

A los 120 días a partir de la firma de este documento, la Comisión Internacional de Verificación y Seguimiento analizará el progreso en el cumplimiento de los acuerdos previstos en el presente documento.

A los 150 días, los cinco Presidentes centroamericanos se reunirán y recibirán un informe de la Comisión Internacional de Verificación y Seguimiento y tomarán las decisiones pertinentes.

Disposiciones Finales

Los puntos comprendidos en este documento forman un todo armónico e indivisible. Su firma entraña la obligación, szeptada de buena fe, de cumplir simultáneamente lo acordado en los plazos establecidos.

Los Presidentes de los cinco estados de la América Central con la voluntad política de responder a los anhelos de Paz de nuestros pueblos lo subscribimos en la Ciudad de Guatemala, a los siete días del mes de agosto de mil novecientos ochenta y siste.

Oscar ARIAS SÁNCHEZ,
Presidente
República de Costa Rica.

Vinicio CEREZO ARÉVALO,
Presidente
República de Guatemala.

José NAPOLEÓN DUARTE,
Presidente
República de El Salvador.

José AZCONA HOYO,
Presidente
República de Honduras.

Daniel ORTEGA SAAVEDRA,
Presidente
República de Nicaragua.

48. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

21 August 1987.

I have the honour to acknowledge receipt of the letter of 18 August by which Your Excellency transmitted to the Court the original Spanish text of the document signed in Guatemala on 7 August 1987 and bearing the title "Procedimiento para establecer una paz Firme y duradera en Centroamérica".

The text has been communicated to the Members of the Court. It would however be much appreciated if any authorized versions that may exist thereof in English and French could be communicated to me.

49. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

21 August 1987.

I have the honour to advise you that the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* has transmitted to the Court a copy of the Spanish original text of the document entitled "Procedimiento para establecer una paz Firme y duradera en Centroamérica", signed in Guatemala on 7 August 1987.

I enclose a copy of my acknowledgment of that communication.

50. L'AGENT DU HONDURAS AU GREFFIER ADJOINT

4 septembre 1987.

J'ai l'honneur de porter à votre connaissance que le Gouvernement de la République du Honduras a désigné, par accord n° 274-SP en date du 10 août 1987, le docteur Jorge Ramón Hernández Alcerro comme co-agent du Gouvernement du Honduras dans l'affaire *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)* (compétence et recevabilité).

Le docteur Jorge Ramón Hernández Alcerro est actuellement le représentant permanent du Gouvernement du Honduras auprès de l'Organisation des Nations Unies à New York.

51. THE REGISTRAR TO THE AGENT OF NICARAGUA

20 November 1987.

I have the honour to refer to my letters of 13 August 1987 (No. 78356) and 18 August 1987, concerning respectively the absence of translations of Annexes 19, 22 and 24 to the Counter-Memorial of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and the identification of the document filed as Annex 25 to that pleading, and to request that Your Excellency be good enough to take the necessary action to put the case-file in order in this respect.

52. L'AGENT DU HONDURAS AU GREFFIER

1^{er} février 1988.

Me référant à notre conversation téléphonique du 28 janvier, j'ai l'honneur de vous transmettre, pour la connaissance de la Cour internationale de Justice, la déclaration conjointe des présidents de l'Amérique centrale, signée à San José, Costa Rica, le 16 janvier 1988.

Vous pourrez apprécier que par cette déclaration conjointe les présidents ont ratifié la valeur historique et l'importance de l'accord d'Esquipulas II, signé le 7 août 1987, et se sont engagés à satisfaire des obligations pour son exécution totale et inexcusable.

Au sujet de l'affaire *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)* les présidents du Nicaragua et du Honduras n'ont pas examiné la situation judiciaire lors de la réunion de San José; par conséquent les deux gouvernements devront encore se concerter pour décider la suite à donner à la requête du Nicaragua conformément à l'accord du 7 août qui vous fut alors transmis.

*Annexe**Declaración conjunta de los Presidentes de Centroamérica*

Los Presidentes han recibido las conclusiones del informe de la Comisión Internacional de Verificación y Seguimiento, preparado de acuerdo al numeral 11 de Esquipulas II, con reservas señaladas por algunos de ellos.

Los Presidentes reconocen el esfuerzo y el ingente trabajo de la Comisión, a la que agradecen su dedicación y esfuerzo para coadyuvar al cumplimiento de los acuerdos de Esquipulas II.

Los Presidentes encomiendan a la Comisión Ejecutiva para que al recibirse el informe general lo examine haciendo las recomendaciones pertinentes.

Los Presidentes ratifican el valor histórico y la importancia del acuerdo de Esquipulas II, cuya concepción y espíritu hoy reconocen y reiteran como vitales para el logro de la democratización y la pacificación de la región.

Por no estar satisfecho enteramente el cumplimiento de los compromisos de Esquipulas II, se comprometen a satisfacer obligaciones incondicionales y unilaterales que obligan a los Gobiernos a un cumplimiento total e inexcusable. Dentro de éstas se encuentran el diálogo, las conversaciones para la concertación del cese de fuego, la amnistía general y, sobre todo, la democratización, que necesariamente incluye el levantamiento del estado de excepción, la libertad de prensa total, el pluralismo político y el no funcionamiento de tribunales especiales. Los compromisos enunciados que no se han cumplido por los gobiernos, deberán ser cumplidos inmediatamente en forma pública y evidente.

El cumplimiento de los acuerdos del documento de Esquipulas II comprende compromisos cuya observancia por los gobiernos es objeto de una imprescindible verificación específica, particularmente el cese de la ayuda a los grupos irregulares, el no uso del territorio para apoyar a los mismos, y la libertad efectiva de los procesos electorales que deberán ser verificados por la Comisión Nacional de Reconciliación, dándole especial importancia a la elección del Parlamento Centroamericano, todos "como un elemento indispensable para lograr la paz estable y duradera en la región".

La Comisión Ejecutiva integrada por los Ministros de Relaciones Exteriores de los Estados Centroamericanos, tendrá la función principal de verificación, control y seguimiento de todos los compromisos contenidos en el procedimiento de Guatemala y en la presente declaración. Para ello, gestionará la cooperación de estados regionales o extrarregionales, u organismos de reconocida imparcialidad y capacidad técnica, que han manifestado su deseo de colaborar en el proceso de paz de Centroamérica.

Igualmente el cumplimiento de Esquipulas II implica el seguimiento de obligaciones que comprenden una estrategia ya establecida, como es el de la regulación del armamentismo, y los acuerdos de seguridad y desarme.

Expresamos nuestro reconocimiento a la comunidad internacional por el apoyo político y financiero que ha comprometido para impulsar proyectos regionales, orientados a alcanzar el desarrollo económico y social de Centroamérica, como objetivo directamente ligado con la tarea de lograr, preservar y consolidar la paz, ya que siendo económicas y sociales las causas primigenias de este conflicto, no es posible alcanzar la paz sin desarrollo.

Los Presidentes, conscientes de su responsabilidad histórica frente a sus pueblos, reafirman su voluntad de cumplimiento en la forma expresada, que estiman irrenunciable e inalterable, prometiendo cumplir lo pendiente en forma inmediata sin reticencias no soslayo, conscientes de que serán sus pueblos y la comunidad internacional quienes juzgarán el cumplimiento de las obligaciones contraídas de buena fe.

Suscribimos la presente declaración, agradeciendo al Pueblo de Costa Rica y a su Presidente, el Dr. Oscar Arias Sanchez, la hospitalidad brindada que nos permitió el marco adecuado para la celebración de esta reunión.

Oscar ARIAS SÁNCHEZ,
Presidente
República de Costa Rica.

José NAPOLEÓN DUARTE,
Presidente
República de El Salvador.

Vinicio CEREZO ARÉVALO,
Presidente
República de Guatemala.

José AZCONA HOYO,
Presidente
República de Honduras.

Daniel ORTEGA SAAVEDRA,
Presidente
República de Nicaragua.

53. LE GREFFIER À L'AGENT DU NICARAGUA

3 février 1988.

Me référant à la communication conjointe, en date du 13 août 1987, des agents de la République du Honduras et de la République du Nicaragua en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, ainsi qu'à ma lettre n° 78357 du même jour, j'ai l'honneur de vous faire tenir ci-joint copie d'une lettre datée du 1^{er} février 1988, émanant de M. l'agent du Honduras, ainsi que du document en langue originale espagnole qui l'accompagnait (Déclaration conjointe des présidents des cinq Etats d'Amérique centrale, signée à San José (Costa Rica) le 16 janvier 1988).

54. THE REGISTRAR TO THE AGENT OF HONDURAS¹

11 February 1988.

I have the honour to inform Your Excellency that the President of the Court wishes to receive the Agents of the Parties to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, at 11 a.m. on Monday 22 February 1988.

In the light of the joint letter addressed to me by the Agents of the Parties on 13 August 1987, the purpose of the meeting will be, pursuant to Article 31 of the Rules of Court, to ascertain the views of the Parties with regard to the subsequent procedure in the case.

55. REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES OF PROTECTION SUBMITTED BY THE GOVERNMENT OF NICARAGUA ON 21 MARCH 1988

[See I, pp. 511-520]

56. THE REGISTRAR TO THE AGENT OF HONDURAS

21 March 1988.

I have the honour to inform Your Excellency that the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* called upon me this evening and handed me a request for the indication of provisional measures in that case, under Article 41 of the Statute and Article 73 of the Rules of Court. I have the honour to transmit to you herewith a certified copy of that request, and of the documents attached thereto. In view of the fact that the request was received outside the office hours of the Embassy of Honduras in The Hague, the address for service chosen by Your Excellency's Government pursuant to Article 40 of the Rules of Court, I considered it my duty forthwith to address a telex message to the Foreign Minister of Honduras and I enclose also a copy of that message for Your Excellency's information.

57. THE AGENT OF NICARAGUA TO THE REGISTRAR

22 March 1988.

Nicaragua filed yesterday a Request for Interim Measures in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. This document has the following errata in para. 8, sec. (a): the reference to Article 50 is to the corresponding Article of the Statute of the Court and the reference to Article 66 is to the corresponding Article of the Rules of Court.

¹ A communication in the same terms was sent to the Agent of Nicaragua.

One of the documents accompanying the request is a copy of a telefax containing an English translation of a speech delivered in Spanish by the President of Nicaragua. The first line of the second page of that document is somewhat blurred and should read as follows:

“ . . . Government has not taken a single step in order to comply with the . . . ”

The first line of the third page of the same document should read as follows:

“ . . . sovereignty of Honduras, that has provoked destabilization in . . . ”

58. THE REGISTRAR TO THE AGENT OF NICARAGUA

23 March 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 22 March 1988, drawing attention to certain corrections to the request for provisional measures, and one of the documents attached, in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. The President of the Court has given leave, under Article 52, paragraph 4, of the Rules of Court, for these corrections to be made, and the Agent of Honduras has been informed of them.

59. THE REGISTRAR TO THE AGENT OF HONDURAS

23 March 1988.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 22 March 1988, and received in the Registry today, from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, drawing attention to certain corrections to the request for provisional measures, and one of the documents attached, in that case. The President of the Court has given leave, under Article 52, paragraph 4, of the Rules of Court, for those corrections to be made.

60. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

24 March 1988.

I have the honour to refer to the request for the indication of provisional measures filed by the Government of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and to inform you that the President of the Court requests the Agents of the Parties to attend a meeting in his office on Tuesday 29 March 1988, at 11.00 a.m.,

¹ A similar communication was sent to the Agent of Honduras.

in order that he may ascertain the views of the Parties with regard to the procedure, pursuant to Article 31 of the Rules of Court.

Article 74, paragraph 2, of the Rules of Court requires the decision on a request of this kind to be reached "as a matter of urgency"; by paragraph 3 of the same Article, the Court or its President is required to fix a date for a hearing which "will afford the parties of being represented at it".

61. THE AGENT OF NICARAGUA TO THE REGISTRAR

29 March 1988.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

I have received instructions from my Government to deliver to the Court a copy of the letter dated 28 March 1988 which has been sent by President Daniel Ortega of Nicaragua to President José Azcona of Honduras. Enclosed is a copy of the original document in Spanish¹ together with an English translation.

Annex

Managua, March 28, 1988.

Dear President and Friend:

As you know, the Fifth Meeting of the Executive Commission of the Esquipulas II Accords, held last week in Guatemala, could not conclude its business. The meeting was tabled with April 7th set as the date of resumption.

However, the dynamic of recent events — the dispatch of 3,200 US soldiers to Honduras and Nicaragua's request for temporary protective measures from the International Court of Justice — has a rhythm of its own which obliges us to make immediate decisions.

In the presence of the other Central American Ministers at the Guatemala meeting, Minister Carlos López Contreras made a commitment that all 3,200 US soldiers, sent to Honduras with the acknowledged intention to "strengthen or protect the Nicaraguan insurgents that are fighting against the Sandinista régime", would be completely withdrawn from Honduran territory on March 26 and 27.

Today, March 28, we have been able to verify that the commitment of Minister López Contreras has not been carried out. Although we have learned from public sources that under consideration is the partial withdrawal of said troops between today and tomorrow, the 29th. This would include the retention of remaining troops in Honduras indefinitely with some taking part in military manœuvres that may have the same aim as that which determined their dispatch.

On the other hand, esteemed President, representatives for Nicaragua and Honduras were summoned by the President of the International Court of Justice to appear at a meeting that was scheduled to be held tomorrow, March 29. This meeting was postponed until Thursday the 31st, at the petition of Honduras.

¹ Not reproduced.

To Your Most Excellent Sir,
José Azcona Hoyo,
President of the Republic of Honduras,
Tegucigalpa.

On Thursday the 31st, however, we should be well prepared to clearly define before the President of the International Court of Justice our decision regarding the form of continuing legal proceedings and/or the conditions under which we could proceed to conclude said proceedings.

Therefore, esteemed President, with the intention of continuing to contribute the utmost to the consolidation of peace, by means of strengthening the process initiated with Esquipulas II, I take the liberty of making the following proposal:

First. Nicaragua is ready to continue to be flexible and patient and in this spirit, to wait until Wednesday, March 30 at 24:00 hours for the 3,200 US soldiers sent to Honduras to totally abandon the territory of that country.

If at that time, the troops that Minister López Contreras guaranteed would be out of Honduras on Sunday the 27th have made an effective and complete withdrawal, then Nicaragua, in the meeting with representatives of Honduras and Nicaragua before the President of the International Court of Justice set for Thursday, March 31, would consent to desist in the request for temporary protective measures presented to the International Court of Justice. But, at the same time, would proceed to insist that said Court set a date for the oral audience on jurisdiction in the claim initiated by Nicaragua against Honduras.

Second. Nicaragua would be willing to alter its position with respect to the date on which an oral audience on jurisdiction is held if, within a time period of no longer than 45 days, a mechanism to guarantee security on the border between Honduras and Nicaragua is established *in situ* and for a minimum period of one year. This mechanism would be established by means of a bilateral accord between both States. For that purpose, a request would be made to the General Secretary of the United Nations to organize, if possible with the co-operation of the Organization of American States, permanent mobile units, such as those suggested by the UN-OAS technical commission that visited Central America in October 1987. These permanent mobile units would be established on the border between Honduras and Nicaragua, and in accord with the letter of the Esquipulas II Accords, its members would be selected from regional and extra-regional countries that have shown a desire to cooperate with peace efforts in Central America. These include countries such as Mexico, Colombia, Panama, Venezuela, Argentina, Brazil, Peru, Uruguay, Canada, Spain, Finland, Italy, Norway, Federal Republic of Germany, and Sweden.

Third. If by May 15th, we find the mechanism to guarantee border security between Honduras and Nicaragua already established *in situ*, Nicaragua would consent to agree that the representatives of both countries appear before the International Court of Justice to express their desire that the date on which the oral audience on jurisdiction takes place be indefinitely suspended.

Fourth. Once all the aforementioned is completed, if Honduras insisted on the withdrawal of the claim, Nicaragua would also be willing to be flexible when and if Honduras agrees to sign a bilateral treaty of friendship and co-operation with Nicaragua that obligates both States to find recourse in the International Court of Justice in the case of any controversy or situation that puts peace between both parties in danger. This bilateral treaty must estab-

lish the acceptance on the part of Honduras and Nicaragua, in a clear and doubtless manner and without any condition or time limit, of the obligatory jurisdiction of the International Court of Justice, independently of whatever existing reservations and/or of the withdrawal or the modification of the acceptance of obligatory jurisdiction of the Court with respect to third States that may be presented following the signing of the treaty. Nicaragua would proceed to desist in the claim against Honduras immediately after the implementation of the treaty of friendship and co-operation.

For your information, I am also enclosing the document that Nicaragua is delivering to Central American Governments and to the international community on the situation we face.

President and Friend, please accept my cordial greetings.

Daniel ORTEGA SAAVEDRA.

62. THE AGENT OF NICARAGUA TO THE REGISTRAR

30 March 1988.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

The letter of President Ortega to President Azcona dated March 28, 1988 — a copy of which was delivered to the Court yesterday — indicates in its text that another document was also enclosed. The copy that was delivered to the Court did not have that enclosure because I had not yet received a legible copy. This arrived today and is enclosed herein.

Annex

Position of Honduras in the Fifth Meeting of the Executive Commission Held in Guatemala on March 23 and 24 of 1988 and Proposal by Nicaragua to Overcome the Situation

Honduras came to the fifth meeting of the Executive Commission, held in Guatemala on March 23-24, 1988, declaring its decision to withdraw if, in the final statement of said meeting, a paragraph was not introduced by which Nicaragua would commit itself to unconditional withdrawal of its request before the International Court of Justice (ICJ) for temporary protective measures. Moreover, Honduras sought Nicaragua's withdrawal of the claim lodged against Honduras on July 28, 1986, that is to say, more than one year prior to the signing of the Esquipulas II Accords.

The Foreign Minister of Honduras, Carlos López Contreras, tried to justify the official position of his Government by alleging that Nicaragua had not sought recourse in mechanisms of verification, control and follow-up provided for in Esquipulas II. He further alleged that, on the occasion of the border incidents that took place in the Bocay Zone in the middle of March, Nicaragua had appealed to the International Court of Justice instead of allowing the Executive Commission to intervene in the affair.

In an objective examination of the facts, these statements are clearly untenable.

First. The mechanism of verification and follow-up created by the Presidents in the context of the Esquipulas II Accords, that is to say, the International Commission for Verification and Follow-up (CIVS), ceased to exist because some of the signatory countries of the Accord — among them Honduras — felt affected by the objective revelations contained in the report on the prevailing situation in each one of the Central American countries. And they insisted on changing the Commission. Nicaragua was the only country that accepted the Report in the form in which it had been formulated by the Ministers and Specialists of the member countries of the Contadora Group and the Contadora Support Group, as well as by the Representatives of the General Secretaries of the United Nations and the Organization of American States. Nicaragua also defended to the end the basic principle that one cannot be judge of a situation to which one is also a party.

Second. In fact, before the formulation of the Report, the CIVS had been handicapped, in large part, by Honduras's rejection of the indispensable *in situ* verification. In this context, it is worth the effort to cite a few specific points of the Report prepared by the CIVS, the only mechanism authorized by the Presidents to pass judgment on compliance or non-compliance with the Accords. In numeral 22 of Chapter IV of the Report, that contains the comments, observations, and conclusions of the CIVS, it is stated:

“The CIVS should point out that the utilization of the territory of States in the region to attack others, with or without the consent of the Government whose territory would be compromised, facilitates the action of said forces or movements and hinders the achievement of peace. The CIVS is still not in a position to verify the aforementioned due to not having been able to install mechanism of *in situ* inspection to date.”

Further on, in numeral 30 of the same Chapter, the CIVS points out:

“One of the first considerations of the CIVS was the necessity to establish practical forms for verification of agreements contained in the Proceedings of Guatemala. For the verification of commitments contracted in the area of security, namely, cease fire, non-use of territories to attack other States, and cessation of aid to irregular forces and insurreccional movements, the necessity of *in situ* inspection is a *sine qua non* of verification if it is to be truly objective, independent, and effective. All the members of the CIVS accept this basic premise and nobody disputes the necessity that such a mechanism must, of necessity, be established so that verification and follow-up can be initiated.”

Third. In the summit held in Alajuela, Costa Rica, the Presidents agreed to delegate to the Central American Foreign Ministers the principal responsibility in the area of verification, control and follow-up. This responsibility involves designing a system for verification of the 22 commitments assumed, and deciding on the regional and extra-regional Governments as well as international organizations that it would be appropriate to invite to collaborate in said tasks.

Fourth. It was the responsibility of the Government of El Salvador, in its capacity as *pro tempore* Secretary of the Executive Commission in the period following the Alajuela Summit, to convene the Foreign Ministers so that they could make the pertinent decisions to fill the dangerous vacuum created by the decision to change the mechanism of verification and follow-up. This vacuum constitutes a threat to the permanence of the Accords. It became indispensable to immediately proceed to the creation of a new verification mechanism.

Fifth. El Salvador convened the Fourth Meeting of the Executive Commis-

sion on February 17, 1988, for the sole purpose of reaching minimal agreements in preparation for the meeting in Hamburg. This call overlooked the fact that the best way to solidify international solidarity, which is very much needed, is by making decisions and taking steps that constitute irrefutable proof of our seriousness in the fulfilment of international agreements. Nicaragua took three extensive proposals to this meeting in San Salvador regarding procedure to undertake in order to fulfil the Ministers' principal responsibility in the area of verification and follow-up of the accords.

Sixth. For unexplainable reasons, the meeting in San Salvador lasted only one day. Obviously, there was not time to consider in any depth the form in which the Executive Commission should organize and put into motion the new verification mechanism. Consequently, neither was there time to study and judge the proposals presented by Nicaragua. For these, it was agreed in the Joint Declaration of said meeting that the Nicaraguan proposals would be the subject of consideration in the meeting to be held in Guatemala on March 23-24, where accords would have to be adopted in relation to the "identification of the forms as well as the countries and international organizations that will participate in the specific verification of the commitments regarding cessation of aid to irregular groups or insurrectional forces and the non-use of territory to attack other States".

Seventh. It is important to emphasize again that Honduras cannot elude the responsibility that rests exclusively on it for having impeded the adequate operation of verification mechanisms created in the context of the Esquipulas II Accords. Therefore, Honduras is not in the right when it alleges that recourse has not been sought in mechanisms that, in fact, are non-existent or inoperative because of the systematic opposition of Honduras to the functioning of those same mechanisms.

Eighth. On March 15, Charles Redman, spokesperson for the State Department, made the first reference in international media to the offensive launched by the EPS with the aim of dislodging the mercenary groups that attempted to establish themselves on the Nicaraguan shore of the Coco River, in the Bocay Zone. The next day, March 16th, the same spokesperson Redman declared that the Sandinista Army had made an incursion into Honduran territory with the objective of destroying arsenals of the "resistance" that were stored in Honduras. Redman pointed out that those arsenals represented a large part of the military material in the hands of the "resistance", and that its loss would signify a severe blow for its members who were now facing a "desperate situation". Likewise, he warned that these acts might be answered by "actions" on the part of the United States, which would honour its commitment to the Honduran Government to aid in the defense of its national sovereignty and territorial integrity. Redman added, of course, that the United States has had a long-standing commitment to the "freedom fighters" of Nicaragua.

Ninth. Later, the dispatch of 3,200 soldiers from the 82nd Airborne Division was announced. According to Frank Carlucci and Michael O'Brien, US Embassy Consul in Tegucigalpa, their "principal objective" was to "strengthen or protect the Nicaraguan insurgents that are fighting against the Sandinista régime". Clearly, at no time was this an effort to defend the sovereignty and territorial integrity of Honduras, which was never threatened. The only objective pursued with the transfer of US troops to Honduras was to "strengthen or protect" the mercenary forces.

Tenth. In a press conference held by the President of Nicaragua on March 16 in light of the threats by the US Government — expressed by spokesperson Redman — and in spite of the fact that there had not yet been any Honduran

protest presented repeating the charges formulated by the spokespersons of the Reagan Administration, President Daniel Ortega stated:

"In view of the gravity of the situation, I have been in contact with President Azcona since yesterday, and today [March 16] we have spoken twice. I have also contacted all the Central American Presidents. I communicated to President Azcona, in particular, what the situation was. I proposed that we meet immediately and that by common agreement, we could call a commission to come and verify these acts and offer recommendations for the evacuation of the counterrevolutionaries from this vital zone for the mercenaries. That is the interest of the United States in defending those positions. We await an answer from President Azcona on the three proposals: a meeting between President Azcona and myself; a meeting between Heads of the Army of both countries; and on the proposal of President Cerezo, an urgent meeting of Central American Ministers. We would be agreeable to any of these options, but we consider the most important to be the participation of the UN-OAS Technical Commission with the aim of verifying events and adopting appropriate resolutions."

Eleventh. It is clearly established, therefore, that in the serious border incident between Honduras and Nicaragua that took place in the middle of March, the mechanisms provided for in the Proceedings of Guatemala could not function, only and exclusively because Honduras, once again, hindered its operation. President Cerezo, whose country exercises the *pro tempore* Secretary of the Executive Commission, in a responsible and timely manner, instructed Foreign Minister Alfonso Cabrera to proceed to convene the Central American Foreign Ministers to gather information and analyse the facts and their causes, and in this way be in a position to adopt pertinent resolutions. President Daniel Ortega, personally, accepted the proposal of President Cerezo and said that the doors of Nicaragua were open for hosting such a meeting, as well as for the necessary *in situ* inspection. Honduras was the only country that denied said mechanism, in the context of Esquipulas II, from being able to operate.

Likewise, Honduras refused to open its doors to the Technical Mission of investigation sent by the General Secretary of the United Nations that was previously approved by consultations of the Security Council. Said mission, because of the negative response of Honduras, could only carry out its task on Nicaraguan soil.

In view of Honduras's position to hinder the functioning of mechanisms contained in Esquipulas II, Nicaragua was obligated to seek recourse in the International Court of Justice, to request temporary protective measures within the legal proceedings brought against Honduras.

From this chronological review of the facts, it follows that the attempt by Honduras to blame Nicaragua for having hampered the operation of mechanisms of Esquipulas II is totally unjustified. As has been demonstrated, Nicaragua first sought recourse in said mechanisms. However, it was Honduras that opposed the utilization of those mechanisms, in line with its policy of systematic rejection of implementing verification mechanisms established in Esquipulas II. This policy has not varied, regardless of repeated promises and proposals for modifying it that have never materialized.

But what is even more serious, and certainly constitutes the biggest violation imaginable of the letter and spirit of the Esquipulas II Accords, is that Honduras has solicited, or at least accepted, US troops in its territory to "strengthen or protect" mercenary forces that Honduras had committed

itself not to aid in any way. On the contrary, Honduras had taken on the solemn commitment to block these forces from using its territory.

On the other hand, and independently of the fact that the conduct of Honduras is openly in violation of the Esquipulas II Accords, Nicaragua wants to present clear and forceful evidence that the conduct of Honduras is also totally in violation of the most fundamental principles of international law. These include principles such as the non-use or threat of use of force, non-intervention and respect for the sovereignty and territorial integrity of the States. At the same time, Nicaragua offers proof that there is not a single bilateral, regional or any other sort of accord that can diminish the rights and obligations of the States established in the Charter of the United Nations according to Article 103 of that Charter. The request for transfer of US combat troops to Honduras to protect the mercenary forces, consequently, violates not only the Esquipulas Accords but also transgresses international law.

It is foreseeable that, even though we may be able to overcome these most recent incidents, similar acts could happen again — as has happened in the past. Similar acts could happen as long as the well-equipped mercenary forces (as has been recognized by spokespersons for the Reagan Administration) continue to enjoy the support and protection of Honduras to launch, from the territory of that country, their armed actions against Nicaragua.

Likewise, it is evident that the signing of the Sapoa Accords does not eliminate the possibility of a repetition of these incidents, because it is well known that the most recalcitrant somozist ex-guards that lead the mercenary units refuse to accept said accords.

Therefore, the request for temporary protective measures is totally justified and necessary for the preservation of peace between both brother countries. Nevertheless, in light of Honduran demands, Nicaragua is willing to be flexible and, inspired in its permanent vocation of peace, presents the following proposal to the Honduran Government:

Proposal by Nicaragua to Achieve the Re-establishment of Peace and Tranquility in the Border Zone between Honduras and Nicaragua

1. On March 17, 3,200 US soldiers landed in Honduras. Statements by Mr. Frank Carlucci, Secretary of Defense for the United States, repeated by Mr. Michael O'Brien, Consul for the US Embassy in Tegucigalpa, publicly acknowledged that the "principal objective of the troops that the United States Government has recently dispatched at the request of the Honduran Government is to strengthen or protect the Nicaraguan insurgents fighting against the Sandinista régime".

In the meeting of the Executive Commission, held in Guatemala last March 23 and 24, Mr. Foreign Minister for Honduras, Carlos López Contreras, issued an assurance that said troops would begin their withdrawal from Honduras on the 26th and would be totally out of Honduran territory on March 27, that is to say, during the weekend. It turns out that this is not true, as US troops continue to be stationed in Honduras.

Today, March 28, Nicaragua continues to be willing to maintain its flexibility, and to wait until Wednesday, March 30 at 24:00 hours for the total withdrawal of US troops from Honduras. If at that time, the 3,200 US soldiers that Foreign Minister López Contreras guaranteed would be out of Honduras on Sunday the 27th, have made an effective and total withdrawal, then Nicaragua, in the meeting with representatives of Honduras and Nicaragua before the President of the International Court of Justice set for Thursday, March 31,

would consent to desist in the request for temporary protective measures presented to the International Court of Justice. But, at the same time, would proceed to insist to said Court that it set a date for the oral audience on jurisdiction in the claim initiated by Nicaragua against Honduras as soon as possible.

2. Nicaragua would be willing to alter its position with respect to the date on which an oral audience on jurisdiction is held if, within a time period of no longer than 45 days, a mechanism to guarantee security on the border between Honduras and Nicaragua is established *in situ* and for a minimum period of one year. This mechanism would be established by means of a bilateral accord between both States. For that purpose, a request would be made to the General Secretary of the United Nations to organize, if possible with the co-operation of the Organization of American States, permanent mobile units, such as those suggested by the UN-OAS technical commission that visited Central America in October 1987. These permanent mobile units would be established on the border between Honduras and Nicaragua, and in accord with the letter of the Esquipulas II Accords, its members would be selected from regional and extra-regional countries that have shown a desire to co-operate with peace efforts in Central America. These include countries such as Mexico, Colombia, Panama, Venezuela, Argentina, Brazil, Peru, Uruguay, Canada, Spain, Finland, Italy, Norway, Federal Republic of Germany, and Sweden.

3. If by May 15th, we find the mechanism to guarantee border security between Honduras and Nicaragua already established *in situ*, Nicaragua would consent to agree that the representatives of both countries appear before the International Court of Justice to express their desire that the date on which the oral audience on jurisdiction takes place be indefinitely suspended.

4. Once all the aforementioned is complete, if Honduras insisted on the withdrawal of the claim, Nicaragua would also be willing to be flexible when and if Honduras agrees to sign a bilateral treaty of friendship and co-operation with Nicaragua that obligates both States to find recourse in the International Court of Justice in the case of any controversy or situation that puts peace between both parties in danger. This bilateral treaty must establish the acceptance on the part of Honduras and Nicaragua, in a clear and doubtless manner and without any condition or time-limit, of the obligatory jurisdiction of the International Court of Justice, independently of whatever existing reservations and/or of the withdrawal or the modification of the acceptance of obligatory jurisdiction of the Court with respect to third States that may be presented following the signing of the treaty. Nicaragua would proceed to desist in the claim against Honduras immediately after the implementation of the treaty of friendship and co-operation.

Managua, March 28, 1988.

Miguel D'ESCOTO BROCKMANN,
Foreign Ministry.

63. THE AGENT OF NICARAGUA TO THE REGISTRAR

31 March 1988.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

I have been instructed by my Government to make the following communication to the Court.

The Deputy Minister of Foreign Affairs of Nicaragua, Dr. José Leon Talavera, was expressly charged with delivering to the Ministry of Foreign Affairs of Honduras, of the letter dated 28 March 1988 that President Ortega addressed to President Azcona, and of which the Court was furnished with a copy.

On occasion of that meeting, Deputy Minister Talavera was given assurances by the Honduran authorities that the troops of the Government of the United States that had recently been sent to that country were being withdrawn. He was also told that due to the Easter celebrations President Azcona was away from his ordinary round of duties and for that reason they requested a prudential period of time to respond to President Ortega's letter.

For the reasons stated above, and particularly in view of the formal assurances given by the Government of Honduras — that have begun to be put into effect — of proceeding to the withdrawal of the troops of the United States that were the principal reason for the urgent request made by Nicaragua to the Court, my Government has given me instructions to withdraw the request of interim measures of protection that had been requested from the Court on 21 March of this year.

With respect to the other considerations in President Ortega's letter, my Government considers it convenient — in view of the explanations given by the Honduran authorities — to await the reply of President Azcona at his return.

64. THE REGISTRAR TO THE AGENT OF HONDURAS

31 March 1988.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 31 March 1988 and handed to me at 1.15 p.m. today by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

In view of the terms of the letter, the President of the Court proposes to make an Order today placing on record the withdrawal of the request for the indication of provisional measures made by the Republic of Nicaragua on 21 March 1988.

65. THE REGISTRAR TO THE AGENT OF NICARAGUA

31 March 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 31 March 1988 withdrawing the request made by the Republic of Nicaragua for the indication of provisional measures in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. I have the honour further to transmit herewith a plain copy of an Order¹ made by the President of the Court today, placing on record that withdrawal. The formal sealed copy of the Order for the Government of Nicaragua will be sent to you early next week.

¹ *I.C.J. Reports 1988*, p. 9.

66. THE REGISTRAR TO THE AGENT OF HONDURAS

31 March 1988.

Further to my letter of today's date, by which I transmitted to Your Excellency a copy of the letter of 31 March 1988 from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* withdrawing the request made by the Republic of Nicaragua for the indication of provisional measures in that case, I have the honour to transmit herewith a plain copy of an Order¹ made by the President of the Court today, placing on record that withdrawal. The formal sealed copy of the Order for the Government of Honduras will be sent to you early next week.

67. L'AGENT DU HONDURAS AU GREFFIER

5 avril 1988.

J'ai l'honneur de vous accuser réception de vos aimables notes 79283 et 79284 du 30 et 31 mars, relatives au retrait par le Nicaragua de sa demande à la Cour en indication de mesures conservatoires dans l'affaire *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, accompagnée de l'ordonnance du 31 mars, prise par Monsieur le Président de la Cour.

Je vous serais gré, Monsieur le Greffier, de bien vouloir transmettre à Son Excellence le Président de la Cour internationale de Justice la lettre que, au sujet de cette procédure incidente, j'ai l'honneur de lui adresser accompagnée de trois annexes.

68. L'AGENT DU HONDURAS AU PRÉSIDENT DE LA COUR

1^{er} avril 1988.

La République du Honduras prend acte du retrait effectué par le Gouvernement du Nicaragua en date du 31 mars, à propos de la demande en indication de mesures conservatoires qu'il avait introduite devant la Cour internationale de Justice le 21 mars 1988.

Elle tient à préciser à l'attention de la Cour qu'elle ne pouvait de toute façon que déplorer l'initiative de cette demande, provoquée, qui plus est, par des actions armées dont le Nicaragua avait lui-même pris l'initiative.

Cette demande illustre une nouvelle fois le caractère tactique des agissements du Nicaragua à l'encontre du Honduras devant la Cour, qui s'inscrivent manifestement dans le cadre d'une stratégie politique d'ensemble, au sein de laquelle la Haute Juridiction est sollicitée pour permettre au Nicaragua d'atteindre, sous le couvert du droit, les objectifs purement politiques qu'il s'est fixés.

La République du Honduras ne peut que déplorer cette attitude, peu compatible avec le respect dû à la Cour et au droit international en général.

¹ *I.C.J. Reports 1988*, p. 9.

Concernant la demande en indication de mesures conservatoires invoquée ci-dessus, la République du Honduras n'aurait pas pu l'accepter d'avantage que la requête principale sur laquelle cette procédure incidente venait se greffer.

Pour ordonner de telles mesures, il eût en effet fallu que la Cour se déclarât «prima facie» compétente, pour connaître de la requête nicaraguayenne du 28 juillet 1986. Or une telle position ne pouvait être prise s'agissant d'un cas dans lequel la compétence de la Haute Juridiction et la recevabilité de la requête sont manifestement dépourvues de bases juridiques, pour les raisons que la République du Honduras a pu amplement développer dans le mémoire qu'elle a eu l'honneur de déposer au Greffe de la Cour le 22 février 1987.

La République du Honduras tient par ailleurs à souligner que l'ajournement de la procédure orale dans la phase de juridiction et recevabilité, dans notre affaire, demandé par lettre conjointe des présidents des deux Républiques le 7 août 1987, était destiné à favoriser le déroulement de procédures plus appropriées au règlement des différends dans l'ensemble de la région d'Amérique centrale, et ne comportait pas des engagements des parties sur les différends de fond qui les séparent.

Dans ce contexte le Gouvernement du Honduras rejette en outre formellement les accusations du Gouvernement du Nicaragua contre le Honduras et les diverses affirmations fausses et erronées qu'il attribue aux hauts fonctionnaires du Gouvernement du Honduras, dans ces récentes communications à la Cour, ainsi que sa particulière interprétation de la position du Honduras à la commission exécutive des accords d'Esquipulas II.

Finalement le Gouvernement du Honduras tient à souligner, en rapport à la lettre de M. l'agent du Nicaragua du 31 mars, que le retrait des troupes américaines du Honduras était prévu à la fin des manœuvres conjointes et ne faisait nullement partie des mesures conservatoires demandées le 21 mars par le Gouvernement du Nicaragua.

La République du Honduras porte respectueusement à l'attention de la Cour les documents joints en annexe à la présente lettre afin de lui permettre d'avoir une connaissance plus exacte des faits allégués par le Nicaragua dans sa demande en indication de mesures conservatoires.

ANNEXES

1. Note de protestation du 16 mars 1988, du ministre des relations extérieures du Honduras, au ministre des relations extérieures du Nicaragua, adressée trois jours avant la première note de protestation du Nicaragua, jointe à sa demande.

2. Lettre du 15 mars 1988, adressée par le président Azcona au président Reagan, concernant l'exercice du droit de légitime défense par le Honduras face à l'agression sandiniste.

3. Communiqué de presse n° 018-88 émis le 16 mars 1988 par la direction de l'information du ministère des relations extérieures du Honduras, au sujet des événements dans le secteur de Bocay, à la frontière entre le Honduras et le Nicaragua.

Annexe 1. Note de protestation

N° 025-DSM

Tegucigalpa, le 16 mars 1988.

Monsieur le Ministre,

Je m'adresse à Votre Excellence pour porter à sa connaissance que des éléments de l'armée populaire sandiniste estimés entre mille et mille cinq cents ont envahi le territoire hondurien dans le secteur où la rivière Bocay verse ses eaux dans le fleuve Coco ou Segovia au sud-est du département d'Olancho. L'attaque fut précédée par des bombardements d'artillerie et aériens.

Il s'agit là d'une ouverte agression armée contre l'Etat du Honduras, avec la violation conséquente de son territoire et de son espace aérien.

Elle constitue en outre une violation de la Charte des Nations Unies, de la charte de l'Organisation des Etats américains et du traité interaméricain d'assistance mutuelle. Instruments tous qui proscrivent l'emploi et la menace de la force dans les relations internationales.

Face à ces événements graves et injustifiés, mon gouvernement présente sa plus énergique protestation; demande le retrait immédiat des troupes envahissantes et prévient le Gouvernement du Nicaragua qu'il adoptera les mesures nécessaires pour exercer son droit de légitime défense prévu à l'article 51 de la Charte des Nations Unies.

Je renouvelle à Votre Excellence les assurances de ma haute considération.

Carlos LÓPEZ CONTRERAS,
ministre.

Son Excellence Don Miguel d'Escoto,
ministre des relations extérieures,
Managua, Nicaragua.

Annexe 2

Tegucigalpa, D.C., March 15, 1988.

Mr. President:

I have the honour of addressing Your Excellency to refer first of all, that yesterday Sandinista Popular Army troops have trespassed the border between Honduras and Nicaragua, attacking with artillery forces and combat aircraft the localities situated on Honduran territory at the Southeastern sector of the Olancho Province.

In order to prevent the worsening of the situation in the frontier, I have demanded President Ortega to order his troops to abstain from violating our national territory and the immediate withdrawal of the military units that have invaded Honduras.

I have also kept in touch with Presidents José Napoleón Duarte, Vinicio Cerezo and Oscar Arias Sánchez and asked them to call the Government of Nicaragua to put an end to its aggression against Honduras and to withdraw its troops from the frontier zone.

My Government, in exercise of the right of legitimate self-defence consecrated in Article 51 of the UN Charter, immediately proceeded to execute

the necessary actions to reject the invasion, instructing its Armed Forces to repel the troops of the Sandinista Popular Army.

In view of this unjustified aggression and the evident disadvantage my country is in, regarding the number of military effectives and armaments the aggressor forces dispose of, my Government is forced to appeal to the continental solidarity to repel the aggression and to restore peace in the region.

In the light of international law the actions carried out by the invading army are indeed an act of aggression which in consequence should be considered as an attack against all American States.

Therefore, according to the above-mentioned Article 51 of the UN Charter; Articles 3, 8 and 9 of the Interamerican Reciprocal Assistance Treaty; in consonance of the special security relations between our two States and the provisions of the Military Assistance Treaty subscribed on May 20, 1954, I am in the need of requesting your Government the effective and immediate assistance to maintain the sovereignty and territorial integrity of my country.

I am convinced, Mr. President, that you share with me the assurance that a joint action of both our countries is necessary to defeat this new aggression of the Sandinista régime.

I avail myself of this opportunity to reiterate to Your Excellency the assurances of my highest and distinguished consideration.

José AZCONA HOYO,
President.

HIS EXCELLENCY MR. RONALD REAGAN,
PRESIDENT OF THE UNITED STATES OF AMERICA,
WASHINGTON, D.C.

Annexe 3. Press Release Issued on 16 March 1988 by the Honduran Ministry of Foreign Affairs

The Ministry of Foreign Affairs of the Republic of Honduras wishes to inform the general public, in Honduras and throughout the world, of events which have taken place in the Honduran-Nicaraguan border region (Bocay sector of the Department of Olancho):

1. On 15 March, the Honduran Armed Forces notified the President of the Republic of an encroachment on our territory by forces of the Sandinist People's Army: several hundred troops made an incursion into Honduran territory, with artillery support and with bombs being dropped from fixed-wing aircraft and helicopters.

2. With a view to preventing any worsening of the border situation, the President of Honduras contacted President Ortega and requested him to order his troops to refrain from encroaching on our territory, and to withdraw immediately the military units which had invaded Honduras.

3. Similarly, he contacted President José Napoléon Duarte, President Vinicio Cerezo and President Oscar Arias Sánchez, requesting them to urge the Government of Nicaragua to halt its aggression against Honduras and withdraw the troops from the border region.

4. Also on 15 March, after the aforementioned telephone communications, President Azcona, with a view to safeguarding the security of the Honduran people, addressed a letter to the President of the United States of

America, informing him of these developments and requesting his solidarity in countering the violation of Honduran territory.

Inasmuch as the military action by the Sandinist People's Army in Honduran territory constitutes aggression, President Azcona, on the basis of the special security relationship with the United States and on the basis of international collective-security instruments, found it necessary to ask the United States Government for the effective and immediate assistance which Honduras needs in order to maintain its territorial sovereignty and integrity.

5. On 16 March, the United States Ambassador in Tegucigalpa, on express instructions from his Government, reaffirmed the United States commitment to support Honduras and provide any assistance needed by our country for the defence of its national sovereignty.

6. The Ministry of Foreign Affairs has protested in the strongest terms to the Government of Nicaragua at the act of aggression, has demanded the immediate withdrawal of the invasion forces, and has warned that Government that it will take the necessary action to exercise its right of self-defence, as envisaged in Article 51 of the Charter of the United Nations.

7. Honduras regrets that the Government of Nicaragua, through the internal and international use of force, persists in jeopardizing the effort to achieve a peaceful solution to its social conflict.

8. Tonight the President of Honduras again spoke with the President of Nicaragua and took the opportunity both to reiterate the urgent need to withdraw Sandinist troops from Honduran territory and to inform him of the steps taken by the Government of Honduras to safeguard its territorial sovereignty and integrity.

69. L'AGENT DU HONDURAS AU GREFFIER

12 avril 1988.

J'ai l'honneur de me référer à l'ouverture de la procédure orale dans l'affaire des *Actions armées frontalières et transfrontalières (compétence et recevabilité) (Nicaragua c. Honduras)* vous priant de bien vouloir porter à la connaissance de S. Exc. M. le Président que le Gouvernement du Honduras demande respectueusement qu'elles aient lieu entre les dates du 23 mai et le 10 juin 1988.

70. THE REGISTRAR TO THE AGENT OF HONDURAS¹

26 April 1988.

In confirmation of the arrangements discussed at the meeting between the President of the Court and the Agents of the Parties in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, held on 20 April 1988, I have the honour to inform you that the Court has decided that the oral proceedings on the questions of jurisdiction and admissibility in that case will open at 3 p.m. on Monday 6 June 1988.

¹ A communication in the same terms was sent to the Agent of Nicaragua.

It is my understanding that the Parties are in agreement that the representatives of Honduras should address the Court on 6 and 7 June, and the representatives of Nicaragua on 9 and 10 June; the possibility of a second exchange of speeches remains reserved. These arrangements have been approved by the Court in accordance with Article 58, paragraph 2, of the Rules of Court.

71. THE REGISTRAR TO THE AGENT OF NICARAGUA

26 April 1988.

I refer to my letters of 13 August 1987, 18 August 1987 and 20 November 1987, concerning the absence of translation into an official language of the Court of Annexes 19, 22 and 24 to the Counter-Memorial of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and the identification of the document filed as Annex 25 to that pleading; these matters were also drawn to Your Excellency's attention by the Registry in a telephone conversation of 12 January 1988. In view of the fact that oral proceedings in this case are to open in little more than a month's time, it is my duty to call upon Your Excellency's Government to bring its pleading into compliance with the Rules of Court in this respect without further delay.

72. L'AGENT DU HONDURAS AU GREFFIER

28 avril 1988.

J'ai l'honneur, aux fins de connaissance de la Cour, de vous envoyer ci-joint la note n° 198-DA en date du 21 avril 1988 adressée par le ministre des relations extérieures du Honduras, M. Carlos López Contreras, au ministre des relations extérieures du Nicaragua, M. Miguel d'Escoto Brockmann.

(Free translation)

Note No. 198-DA

Tegucigalpa, D.C., 21 April 1988.

His Excellency Dr. Miguel d'Escoto Brockmann,
Minister of Foreign Relations,
Managua, Nicaragua.

Your Excellency,

I have the honour to refer to Your Excellency's letter of 20 April 1988 by which your Government strongly protests the authorization of the Government of Honduras to the delivery of humanitarian aid to groups of Nicaraguans, approved by the Congress of the United States of America with the

affirmative vote of representatives and Senators of both the Republican and Democratic Parties.

Your Excellency, I consider your protest to be absolutely ungrounded, considering that said aid was approved with the consent of the Nicaraguan Government once an agreement of a temporary cease-fire was reached, precisely with the purpose of expediting the agreements of Esquipulas II, and the Sapoá negotiations, which are still in effect.

What the Honduran Government has allowed is, that under the supervision of the International Agency for Development, the Catholic Church, and Price Waterhouse, a private enterprise, said aid reaches those groups of Nicaraguans that are in the country and who do not fall under the protection of the Higher Commissioner of the United Nations for the Refugees (ACNUR).

In reference to the legal action of the Nicaraguan Government against the Government of Honduras before the International Court of Justice, Your Excellency is perfectly aware of the firm posture assumed by my country since the beginning of the case, which is, in brief, that any forum of negotiations, let it be called Contadora or Esquipulas, is incompatible with the legal action raised before the Court. It would be more truthful to affirm that it is the obstinate attitude of the Nicaraguan Government not to abandon its legal claim which constantly undermines the different efforts to achieve a regional agreement, even when the Government of Honduras has presented concrete proposals to solve the border incidents. The purpose of the Honduran request to the Court to have a date for the oral hearing is to avoid that Nicaragua continues to manipulate this legal claim before the Court to achieve its own political ends. Therefore, Your Excellency, it is up to your Government to allow the process of Guatemala and the Declaration of San José to advance, or to become stagnant.

Copy of this note will be forwarded to the International Court of Justice.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Carlos LÓPEZ CONTRERAS,
Minister of Foreign Relations.

73. THE AGENT OF NICARAGUA TO THE REGISTRAR

8 May 1988.

I refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

Enclosed are translations into English of Annexes 19, 22 and 24 of the Counter-Memorial¹. The document included in the Counter-Memorial as Annex 25 should be the copy of the letter sent by the Government of Honduras to the Secretary-General of the United Nations on 18 April 1984 and which I am also enclosing.

¹ See I, pp. 415, 421 and 478, respectively.

74. THE REGISTRAR TO THE AGENT OF NICARAGUA

9 May 1988.

I have the honour to acknowledge receipt with thanks of Your Excellency's letter of 8 May 1988 enclosing translations into English of the documents attached to the Counter-Memorial of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* as Annexes 19, 22 and 24. I note further that Annex 25 to the Counter-Memorial should be a letter dated 18 April 1984 from the Government of Honduras to the Secretary-General of the United Nations, the text of which you were also good enough to enclose with your letter. The President of the Court has given leave, pursuant to Article 52, paragraph 4, of the Rules of Court, for the substitution of this text for the text previously filed as Annex 25¹.

75. THE REGISTRAR TO THE AGENT OF NICARAGUA²

31 May 1988.

I have the honour to draw your attention to the following provisions of Article 71 of the Rules of Court:

"1. A verbatim record shall be made by the Registrar of every hearing, in the official language of the Court which has been used . . .

4. Copies of the transcript shall be circulated to judges sitting in the case, and to the parties. The latter may, under the supervision of the Court, correct the transcripts of speeches and statements made on their behalf, but in no case may such corrections affect the sense and bearing thereof . . ."

The transcript of the oral proceedings on the question of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, opening on Monday 6 June 1988, will be circulated to the Parties as follows: the transcript of a hearing held from 10 a.m. to 1 p.m. will be available in the evening of the same day, and that of a hearing held from 3 to 6 p.m. will be available during the morning of the following day.

In order to facilitate any supervision which the Court may feel it proper to exercise, I shall be obliged if you will hand your corrections to my secretary as soon as possible after the circulation of each transcript, and in any event not later than 6 p.m. on the day following such circulation.

76. THE REGISTRAR TO THE AGENT OF HONDURAS³

31 May 1988.

I have the honour to refer to Article 53, paragraph 2, of the Rules of Court, which provides that:

¹ See I, pp. 501-503.

² A communication in the same terms was sent to the Agent of Honduras.

³ A communication in the same terms was sent to the Agent of Nicaragua.

“The Court may, after ascertaining the views of the parties, decide that copies of the pleadings and documents annexed shall be made accessible to the public on or after the opening of the oral proceedings.”

I should be obliged if you would communicate to the Court as soon as possible any views which the Government of Honduras may desire to express on this question in respect of the proceedings on the question of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. A similar enquiry has been addressed to the Government of Nicaragua.

77. THE AGENT OF NICARAGUA TO THE REGISTRAR

3 June 1988.

I have the honour to refer to your letter dated 31 May 1988 in which you request the views of my Government on the matter of making accessible to the public, on or after the opening of the oral pleadings, of copies of the pleadings and documents annexed in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

After consideration, my Government has no objection to making accessible copies of such documents.

78. L'AGENT DU HONDURAS AU GREFFIER

3 juin 1988.

J'ai l'honneur, me référant à votre aimable communication 79575 en date du 31 mai, de porter à votre connaissance que le Gouvernement du Honduras ne fait pas d'objection à ce que des exemplaires des pièces de procédure et des documents annexés soient rendus accessibles au public à l'ouverture de la procédure orale ou ultérieurement dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)*, comme prévu à l'article 53, paragraphe 2, du Règlement.

79. L'AGENT DU HONDURAS AU GREFFIER

7 juin 1988.

Au terme de l'exposé de ses arguments et de la réfutation dès thèses du Nicaragua dans ses plaidoiries dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)*, la République du Honduras ne juge pas nécessaire de modifier les conclusions¹ qu'elle a respectueusement soumises à la Cour à la fin de son mémoire.

¹ Voir I, p. 80.

Je prie donc la Cour de considérer leurs termes comme inchangés. Nous nous réservons la possibilité de les compléter éventuellement au terme d'un second tour de plaidoiries.

80. THE AGENT OF HONDURAS TO THE REGISTRAR

9 June 1988.

I have the honour to enclose herewith the Summary Records CR 88/4 and CR 88/5, corresponding to the oral hearings held on Monday 6 June, at 15 hours, and Tuesday 7 June, at 10 hours, containing the interventions of the Agent, Co-Agent and Counsels of Honduras, with the following corrections¹.

81. THE REGISTRAR TO THE AGENT OF NICARAGUA

9 June 1988.

Pursuant to Article 60, paragraph 2, of the Rules of Court, I have the honour to transmit to Your Excellency herewith a copy of a letter dated 7 June 1988 by which the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* confirms the indication given at the hearing of that date that Honduras maintains at the present stage of the proceedings the submissions stated in its Memorial. Attached to that letter was a copy of pages 173-175 of that Memorial, where the submissions are set out, a copy of which is enclosed. The Agent of Honduras has also requested that the Annex to CR 88/5 consists of the original English text of his Government's submissions, rather than the French translation as at present.

82. THE AGENT OF NICARAGUA TO THE REGISTRAR

10 June 1988.

I have the honour to present, in accordance with the Rules of Court, the Submissions of the Government of Nicaragua², in *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

¹ The corrections which the Parties requested to be made in the transcripts of their oral arguments, under the supervision of the Court, were taken into account at the time of publication of the text in the present series.

² See pp. 136, *supra*, and I, pp. 374-375.

83. THE REGISTRAR TO THE AGENT OF HONDURAS

10 June 1988.

I have the honour to transmit to Your Excellency herewith a copy of a letter of today's date from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and a copy of the text of the submissions of Nicaragua enclosed with that letter.

84. THE AGENT OF NICARAGUA TO THE REGISTRAR

13 June 1988.

I have the honour to refer to the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

At the request of the President of the Court at the oral proceedings on 9 June 1988, copies of the documents referred to by Nicaragua's Agent and counsel on that date are hereby submitted to the Court. A list of the documents is also annexed hereto.

Annex

1. "Humanitarian Aid Arrives: Boots and Uniforms" (*La Tribuna*, 24 April 1988).
2. "Aid to the 'Contras' Still Arriving" (*Tiempo*, 5 May 1988).
3. Press Release No. 002-88 of the Ministry of Foreign Affairs of the Republic of Honduras (15 January 1988).
4. Note of Nicaragua to Honduras, 23 April 1988.
5. United Nations Depository Notification, 29 July 1986.

La Tribuna, 28 April 1988, p. 1.

Humanitarian Aid Arrives: Boots and Uniforms

Tegucigalpa. The first plane with US aid for the Nicaraguan rebels arrived yesterday. Dozens of packages with uniforms, boots and knapsacks flew into Toncontin Airport aboard a military plane, and were then stored in a warehouse near the airport. The "humanitarian" aid was transported by these trailers.

[Spanish text not reproduced]

Tiempo, 5 May 1988, p. 1.

Aid to the "Contras" Still Arriving

Caption: *Tegucigalpa*. The American aid to Nicaraguan insurgents who have retreated into the country continued to reach the capital yesterday in

four C-130 transport planes of the United States Air Force. They landed yesterday morning at Toncontin Airport with medicine, clothing and other personal-use items. The cargo (in the photograph¹) was transported in trucks to other locations. (Photo: Majin).

[Spanish text not reproduced]

*Ministry of Foreign Affairs
of the Republic of Honduras*

PRESS RELEASE NO. 002-88

The Honduran Foreign Minister, Carlos López Contreras, has written to Central American Presidents in his capacity as a member of the CIVS protesting irregular actions in the work entrusted to them by some members of the Commission on Verification and Follow-Up.

The note, sent from Panama, says:

"I have the honor of writing to you in my capacity as a full member of the 'Commission on Verification and Follow-Up' (CIVS), created in the 'Procedure for the Establishment of a Firm and Lasting Peace in Central America'. During the IV Meeting of the CIVS held in Washington, D.C., United States of America, we concluded that the five basic commitments provided for in paragraph number 11 of the Guatemala Procedure did not simultaneously and publicly take effect as agreed, due to the unilateral conditions imposed by one Central American government.

Today, I have the painful obligation of informing you that during the V and last meeting of the CIVS, held in this city on January 12 and 13 of this year, some of its non-Central American members tried to assume tasks alien to verification. They crossed over into the area of policy definitions that the Presidents have reserved for themselves. Some of said representatives tried to adopt interpretive functions by judging, even reforming the Guatemala Procedure, and questioning the usefulness of some its provisions. This was clearly trespassing into responsibilities voluntarily assumed by the governments.

Counter to the objectivity and impartiality necessary to analyze progress made in compliance with the Guatemala Accord, they strived to minimize the testimony of non-governmental organizations on human rights violations collected by the Ad-Hoc Commission of Representatives in Managua.

Also, during the debates of the last session, certain members of the CIVS dealt with the conditions imposed by the Nicaraguan Government for implementation of amnesty and lifting the state of emergency, with surprising indulgence and even went so far as to endorse them.

Finally, ignoring the Central American Presidential Accord that sets forth the composition of the CIVS as a body of 15 members with equal rights and obligations, some CIVS members departed from the rule of consensus in decision making. In the process, they have damaged this important organism by imposing their vitiated will.

¹ Not reproduced.

In view of these irregular actions, which affect the rights of Central American Governments and could make the presidential resolutions ineffective, I consider it my duty as a CIVS member to provide evidence and knowledge of my protest to the Presidents so that they may undertake to resolve it.

In closing, I assure the Honorable Presidents of my utmost esteem and consideration.

Carlos LÓPEZ CONTRERAS,
Minister of Foreign Affairs.”

Tegucigalpa, D.C.,
January 15, 1988,
Press and Information Office,
Ministry of Foreign Affairs.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS MANAGUA, NICARAGUA

Managua, April 23, 1988.

The Minister:

I am writing in reference to your note dated April 12 regarding judicial proceedings initiated before the International Court of Justice on July 28, 1986, for illegal activities and violations of international law by Honduras to the detriment of the Republic of Nicaragua.

Before getting into the details of your note, I must express our surprise at the Honduran Government's decision to request continuation of the Nicaraguan lawsuit. As The Minister will recall, on March 28, President Daniel Ortega submitted a concrete proposal to President José Azcona Hoyos on the form under which our country could agree to Honduras's demand to withdraw the lawsuit. President Ortega's proposal — made in the context of border incidents in the Bocay Zone and landing of US troops in Honduras — was not even answered by the Honduran Government, even though it was directed at resolving a problem raised by Honduras on the lawsuit in question in a just and reasonable way.

As Your Excellency will recall, my Government withdrew our petition for provisional protective measures before the International Court of Justice when US troops were withdrawn from Honduras. The presence of these troops in Honduras was a clear threat to Nicaragua, and the main reason for our petition before the ICJ. The case then returned to the status it had been in since August 7, 1987.

The Nicaraguan proposal, presented by President Ortega, outlined the obligations Honduras would have to assume to satisfy Nicaragua and allow us to withdraw the lawsuit before the ICJ. This proposal was repeated in the Executive Commission meeting, held on April 7 of this year in Guatemala, as reflected in the statement issued by Central American Ministers at the close of the meeting.

Therefore, Nicaragua was surprised by the unilateral action of the Hondu-

ran Government in contradiction to its previous agreements and positions. This occurred just before the Executive Commission's next meeting, scheduled for the latter part of May in Tegucigalpa.

By this action, Minister, it would seem that Honduras is seeking a new excuse to continue its policy of sabotaging on-site verification by all possible means. On-site verification is especially necessary for certifying compliance with the agreement to not aid irregular forces in any way. And that is one of the main themes of the upcoming Executive Commission meeting.

Given the many erroneous interpretations in your note on this topic, I am obliged to address each one.

The first paragraph of your note states, "On August 7, 1987, the Central American Presidents signed the 'PROCEDURE FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE IN CENTRAL AMERICA', in one of its clauses agreement was reached" on the text signed by President Daniel Ortega and President Azcona regarding Nicaragua's lawsuit against Honduras that Your Excellency cites in your April 12 note.

Regarding this, I must remind The Minister that the text referred to was formulated completely by the Honduran Government and submitted to President Ortega by President Azcona, who requested his signature. The text was signed following the signing of the Esquipulas II Accord. Therefore, said text is not, nor ever has been, part of the "Guatemala Procedure". It was a transitory agreement of a strictly bilateral character between the two Presidents for a period of one hundred and fifty days until the following meeting of Central American heads of State. At that meeting, the International Commission on Verification and Follow-up (CIVS) was to present a report, a key part of which would be Honduras compliance with the "commitment to impede use of its territory and not permit even logistical military support to persons, organizations, or groups who are attempting to destabilize the Governments of Central American countries".

In the interest of seeing this commitment kept, Nicaragua was agreeable to reviewing with President Azcona the judicial proceedings initiated before the International Court of Justice, including considering withdrawal of the lawsuit. In January 1988, the second meeting of Central American Presidents was held. On that occasion, President Azcona, who had not even minimally complied with his commitment to prevent the use of Honduran territory for attacking Nicaragua, did not even suggest that President Ortega consider extending the period for scheduling public hearings pending in the International Court of Justice. Consequently, when the one hundred and fifty days ended, Nicaragua was freed from any obligation and could renew its case at any time. Nonetheless, we chose patience because we did not want the case before the ICJ to be used as a pretext for obstructing the peace process in Central America.

I would like to add that the CIVS report clearly stated that they were unable to fulfill their verification mission because they were not permitted to carry out on-site inspection. The CIVS considers this a *sine qua non* condition for reaching the goals for which it was created. The CIVS could not accomplish its task because Honduras was the only Central American country which refused to accept on-site inspection. This refusal by Honduras, in turn, was and is due to the fact that such an inspection would show that Honduran territory is the main platform of aggression against Nicaragua.

The Honduran Government's conduct towards Nicaragua in violation of international law was demonstrated once again. Moreover, the Honduran Government refused to accept on-site inspection by the United Nations mis-

sion sent by the Secretary-General to investigate border incidents that occurred last March in the Bocay Zone.

On the other hand, it bears noting that the only two points in common between Esquipulas II and the text signed by the Honduran and Nicaraguan Presidents are the place and date of their signing. Therefore, trying to portray that text as a "clause" of the Esquipulas II Accord is not only illogical, but also contrary to the most elementary legal principals.

Your Excellency states, in another part of your note, that "this clause recognizes the inconsistency of the use of judicial recourse, with the implementation and compliance of the special procedure of Esquipulas II".

This statement by The Minister astounds us. Especially since we have read and re-read the text signed by the Honduran and Nicaraguan Presidents, and have been unsuccessful in locating the section of the so-called "clause" where it "recognizes the inconsistency" between Esquipulas II and the International Court of Justice. The only thing certain about this statement is that it has consistently been the claim of the Honduran Government. It was never accepted by Nicaragua, and never adopted by the International Commission on Verification and Follow-Up (CIVS), in spite of demands by the Honduran Government that it do so. To state that the Esquipulas Accords can dissolve rights and responsibilities of States established in the United Nations Charter is not only extremely absurd, but also lacking foundation.

This fact was made obvious to the Honduran Government on April 5 when it requested that the Security Council be convened. Honduras sought the Council's approval of a resolution urging Nicaragua not to seek recourse to forms of peaceful resolution not mentioned in Esquipulas. The Security Council resolution would have required Nicaragua not to make use of its rights as a United Nations Member State simply for having signed the Esquipulas Accord. The convening of the Council by Honduras provoked such a level of discord and criticism among members of the United Nations, and among many members of the Security Council, that the Honduran Government had to withdraw its request on April 8. Moreover, the fact that Honduras sought Security Council assistance on April 5 is, according to the Honduran Government's logic, an action inconsistent with the "Esquipulas II Procedure".

What was really inconsistent with the Esquipulas II Accord was the acceptance (or was it a request?) by the Honduran Government, last March, of the deployment of US troops to its territory to "strengthen or protect" the *contra* forces who were being dislodged from national territory by the Nicaraguan Army. This was totally inconsistent with the Esquipulas II Accord since, as the US Government itself acknowledged, "The main objective of the troops recently sent by the US Government at the request of the Honduran Government is to strengthen or protect the Nicaraguan insurgents who are fighting against the Sandinista régime". To allow US troops to enter Honduras to support military and paramilitary activities against Nicaragua condemned by the International Court of Justice, not only violates the Esquipulas II Accord but is also a flagrant violation of international law.

The Honduran Government's attempt to use the Esquipulas II Accord as a pretext to flee from serious responsibilities incurred by its illegal conduct against Nicaragua is unacceptable. Esquipulas II cannot be interpreted as a letter of impunity under which the signatory countries are free to act illegally against another signatory State.

On the other hand, Esquipulas is not, nor has it ever tried to be, a "special procedure" as asserted by The Minister. It also does not have any relation either in content or form, to the lawsuit initiated by Nicaragua against Hon-

durans on July 28, 1986, more than one year before the signing of the Esquipulas Accord. Esquipulas is an agreement between the five Central American Governments to procure solutions to the area's specific problems. It is not an accord that substitutes the United Nations Charter. Esquipulas II does not contain any commitment related to bilateral problems between Central American countries, which must be resolved through procedures established by international law, according to the United Nations Charter.

The text signed by the Presidents of Honduras and Nicaragua, at the request of Honduras, to defer public hearings on jurisdiction scheduled by the International Court of Justice for October 20, 1987, was aimed — as has been explained before — at giving Honduras an opportunity to comply with its commitments according to international law, two of which were expressly contained in the Esquipulas II Accord. Those two obligations were to cease support to irregular forces and not allow the use of its territory to attack another State. This, and no other, was the goal of the agreement between the Honduran and Nicaraguan Presidents to defer the date.

In your letter, you also state that "in view of the fact that the Honduran Government cannot remain in a state of uncertainty with respect to its participation in the case initiated by the Nicaraguan Government before the International Court of Justice, which raises the same matters dealt with in the 'Guatemala Procedure', the Honduran Government, very reluctantly, has found it necessary to request the President of the previously mentioned Court to set dates for the phase of public hearings in the case 'Armed Border and Cross-Border Actions (Jurisdiction and Admissibility) (Nicaragua v. Honduras)'."

It is strange that the reason for the Honduran Government's decision is that "it cannot continue in a state of uncertainty with respect to its participation in the case initiated by the Nicaraguan Government". One can say that there has been some uncertainty with respect to the case. But, that uncertainty has been a product of systematic refusal by Honduras to resolve its bilateral conflict with Nicaragua through an institution *par excellence* of peaceful solution of conflicts, such as the International Court of Justice.

On the other hand, to assert that the "Esquipulas Procedure" deals with the same matters as the Nicaraguan lawsuit is complete fiction. The Honduran Government, among other violations of international law, has intervened and intervenes in the internal affairs of Nicaragua. It has promoted, instigated and participated in military and paramilitary activities against Nicaragua. It has encouraged and protected human rights violations, and it has violated and violates Nicaraguan sovereignty. Likewise, it has refused to end its illicit conduct or peacefully resolve the existing bilateral conflict. Instead, it maintains a systematic policy of blackmail towards Nicaragua, threatening at every opportunity to make the Esquipulas II process fail if Nicaragua does not withdraw its lawsuit against Honduras.

In the end, overwhelmed with "uncertainty", the Honduran Government decided to request the continuation of the case before the International Court of Justice in exchange for its withdrawal from the Esquipulas process, for which it seeks to blame Nicaragua. This attitude only confirms the lack of any real willingness by the Honduran Government to comply with its international obligations and commitments — something we have repeatedly protested. The Honduran Government could have avoided considerable domestic uncertainty if it had made these decisions months ago.

Nicaragua regrets the Honduran Government's decision to use the ICJ case as an excuse for discontinuing participation in the Esquipulas II process. However, we feel highly satisfied that the decision clarifies your Govern-

ment's position, accepting recourse in the International Court of Justice. Nicaragua, as the plaintiff country and guided by international law, can finally continue the judicial process without any uncertainty from the continuous blackmail of the Honduran Government regarding the Court at The Hague.

Nicaragua understands that the Honduran decision to reactivate the case before the International Court of Justice constitutes a formal and official rejection of the proposal of President Daniel Ortega to President Azcona, regarding measures that would satisfy Nicaragua and would permit it to withdraw the lawsuit. In view of this rejection on the part of the Honduran Government to our generous and flexible proposal, the Nicaraguan Government officially withdraws said proposal and conveys its decision to continue the case until termination, without further delays, in keeping with the wish expressed by the Honduran Government.

Nicaragua holds the Honduran Government responsible for its systematic blockade of the Esquipulas peace process, and the resulting consequences. It is now clear that the responsibility for reaching peace in Central America in the future rests with the Honduran Government due to its open support for and participation in the US Administration's policy of aggression, and its complicity with all actions aimed at causing regional peace efforts to fail.

In regard to Honduras's public proposal for guaranteeing border security (first presented in November 1987 during the OAS General Assembly in Washington, and repeated in the Executive Commission meeting held on February 17 and 18 in San Salvador), I will limit myself to stating that we are clear that its value was merely propagandistic since the Honduran Government has never shown any willingness to meet with Nicaragua to discuss implementation of said proposal. The Nicaraguan Government requested activation of the Honduran proposal on many occasions, in conversations with Your Excellency, as well as in diplomatic notes, such as the one sent on February 22 of this year. Nicaragua has never received a positive response from the Honduran Government.

In closing, I assure Your Excellency of my utmost esteem and consideration.

Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Excellency
Carlos López Contreras,
Minister of Foreign Affairs,
Tegucigalpa, Honduras.

[Spanish text not reproduced]

C.N.152.1986.TREATIES-1 (Depositary Notification)

COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE

Declaration by Honduras Replacing a Previous Declaration

The Secretary-General of the United Nations, acting in his capacity as depositary, and referring to depositary notification C.N.38.1960.TREATIES-1 of 7 April 1960, communicates the following:

On 6 June 1986, the Secretary-General received from the Government of Honduras a Declaration by which that Government indicates that it modifies the Declaration made on 10 March 1960 under Article 36, paragraph 2, of the Statute of the International Court of Justice, and that this new Declaration replaces the previous Declaration. A translation of the new Declaration is annexed herewith.

29 July 1986.

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned.

C.N.152.1986.TREATIES-1 (Annex)

Translated from Spanish

SECRETARIAT OF STATE FOR FOREIGN AFFAIRS
OF THE REPUBLIC OF HONDURAS

*Declaration on the Jurisdiction of the
International Court of Justice*

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36 (2) of the Statute of the International Court of Justice.

Hereby Declares:

That it modifies the Declaration made by it on 20 February 1960 as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
 - (a) The interpretation of a treaty;
 - (b) any question of international law;
 - (c) the existence of any fact which, if established, would constitute a breach of an international obligation;
 - (d) the nature and extent of the reparation to be made for the breach of an international obligation;
2. This Declaration shall not apply, however, to any of the following disputes to which the Republic of Honduras is a party:
 - (a) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
 - (b) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
 - (c) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
 - (d) disputes referring to:

- (i) territorial questions with regard to sovereignty over islands, shoals and reefs; internal waters, bays and the legal status and limits of the territorial sea;
 - (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
 - (iii) the airspace over the territories, waters and zones referred to in this subparagraph.
3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
 4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
Secretary of State for Foreign Affairs.

85. THE AGENT OF NICARAGUA TO THE REGISTRAR¹

13 June 1988.

I have the honour to refer to the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. For the convenience of the Court, and in anticipation of the possibility that the Agent or counsel for Nicaragua may find it necessary to refer to certain documents in rebuttal to the second round of argument by Honduras, copies of these documents are submitted to the Court herewith. A list of the documents is also annexed hereto.

Annex

A. Diplomatic Correspondence between Nicaragua and Honduras

1988 Notes from Honduras to Nicaragua

27 April	1988
27 April	1988
27 April	1988
23 April	1988
21 April	1988
15 April	1988

¹ See also No. 93, *infra*.

- 12 April 1988
- 8 April 1988
- (note from the Permanent Representative of Honduras to the United Nations addressed to the President of the Security Council)
- 5 April 1988
- 23 March 1988
- 16 March 1988
- 1 March 1988
- 24 February 1988
- 20 February 1988
- 19 February 1988
- 4 February 1988
- 3 February 1988
- 8 January 1988

1988 Notes from Nicaragua to Honduras

- 17 May 1988
- 16 May 1988
- 13 May 1988
- 12 May 1988
- 9 May 1988
- 6 May 1988
- 29 April 1988
- 27 April 1988
- 26 April 1988
- 20 April 1988
- 28 March 1988
- 23 March 1988
- 19 March 1988
- 19 March 1988
- 18 March 1988
- 17 March 1988
- 22 February 1988
- 4 February 1988

B. Press Accounts

1. *La Tribuna*, 28 May 1988.
 2. *La Tribuna*, 23 May 1988.
 3. *New York Times*, 19 May 1988.
 4. *Tiempo*, 28 April 1988.
 5. *El Heraldo*, 28 April 1988.
 6. *La Prensa*, 28 April 1988.
 7. *El Heraldo*, 28 April 1988.
 8. *La Tribuna*, 25 April 1988.
 9. *Miami Herald*, 22 April 1988.
 10. *La Prensa*, 20 April 1988.
 11. *Tiempo*, 28 March 1988.
 12. *Christian Science Monitor*, 8 December 1987.
-

*A. Diplomatic Correspondence between Nicaragua
and Honduras*

1988 Notes from Honduras to Nicaragua

The Ministry of Foreign Affairs of Honduras reports that:

On April 26 of this year, the Minister of Foreign Affairs of the Republic wrote to the Secretary of State, His Excellency Mister George Shultz, regarding recent events in the country in which the United States Consulate in Tegucigalpa suffered physical damage. The note in question begins by condemning those acts, explaining that they are the result of the Matta Ballestreros case as well as provocations by disruptive forces who were undoubtedly inspired by the demonstrations carried out in many American cities criticizing United States Government policy towards Central America.

Clearly, the real aim of some of the demonstrators was to provoke casualties and injuries at the hands of Honduran authorities or Embassy security forces in the assault on the Consulate. Failing in this objective, they fatefully opted to create their own martyrs by wounding several of their comrades and killing two of them.

In these circumstances, we had to choose between an immediate intervention by the police or the thoughtful and prudent response we have chosen on similar occasions, thereby preventing the Government from falling into the trap set by the antisocial individuals.

.....

The authorities chose the second alternative, avoiding involvement in the violence that afflicts our neighbor countries. A rapid police intervention would have caused the desired bloodbath, with incalculable economic, social, and political consequences for our country. It would have put relations between Honduras and the United States into danger, as well.

We recognize and regret the magnitude of material damage caused to the Consulate, but we reject the insinuation that there was bad faith or premeditated negligence on the part of our law enforcement officials in offering protection. Prudence in our actions prevented a crisis of much greater proportions.

On the other hand, the Honduran Government has not just limited itself to condemning drug trafficking. It has also adopted measures that have resulted in the capture and destruction of large quantities of narcotics.

This was recognized in an April 15 message to the President of the Republic from distinguished Senators of the United States, from both the Republican and Democratic Parties. They expressed their solidarity and support in the struggle against drug trafficking. That is why we are so surprised by the intense campaign launched by United States newspapers to discredit and defame the Honduran Government and its Armed Forces. The Minister of Foreign Affairs of the Republic, Carlos López Contreras, has conveyed to Secretary of State George Shultz that it is equally incomprehensible that the United States Government consider declaring Honduras a high-risk country, putting its ally in the same category as its enemies. This, in addition to producing justifiable indignation, is causing serious economic and moral damage.

These events have endangered the cordial and beneficial relationship between the two countries in areas of economic, political, and security

cooperation. This includes the temporary presence of US forces in Honduran military installations. For these reasons, the facts deserve deeper discussion.

April 27, 1988,
Information and Press Office,
Ministry of Foreign Affairs.

[Spanish text not reproduced]

Urgent
Telex No. 805

Tegucigalpa,
April 27, 1988.

His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

I have the honor of writing to Your Excellency regarding today's telex in which you suggest a meeting of the Technical Group take place on May 4 and 5 in Managua to negotiate the Treaty of Regional Friendship and Cooperation.

It pleases me to inform you that Ambassador Roberto Flores Bermudez, Coordinator of the Advisory Cabinet of this Ministry, will participate in said meeting. I will notify you of the details on his arrival as soon as possible.

In closing, I assure your Excellency of my highest esteem and consideration.

Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs.

Urgent

Tegucigalpa,
April 27, 1988.

His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

In keeping with the Joint Statement adopted by Foreign Ministers at the V Meeting of the Executive Commission, I have the honor of inviting Your Excellency to the VI Meeting, to be held in Tegucigalpa. I suggest Thursday, May 19, and Friday, May 20 for this meeting.

I would appreciate it if Your Excellency could inform me of the possibility of attending the meeting on the dates indicated.

In closing, I assure Your Excellency of my highest esteem and consideration.

Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Tegucigalpa,
April 23, 1988.

The Minister:

I have the honor of writing to Your Excellency to submit my Government's most emphatic protest of the Sandinista Army attack on the village of Suji, located on the Honduran bank of the Wanks, Coco or Segovia River, in Gracias a Dios Province.

On Wednesday, April 13, between 02:00 and 03:00 hours, approximately 65 Sandinista Army soldiers assaulted the Suji population, opening fire indiscriminately in a military operation. Killed were Samuel Toribio Miller, a soldier, and Mister Eduardo Martinez, and there were several wounded, all Hondurans. In addition to the material damages inflicted by your Government's Army, Sandinista soldiers acted like common criminals by vulgarly looting the village, in the crude spirit of the attack itself.

My Government, Mr. Minister, has been closely following the negotiations between your Government and the Directorate of the Nicaraguan Resistance. We are convinced that national reconciliation and progress towards democratization in your country would represent a valuable contribution to regional peace. Therefore, we have tried to help provide the Nicaraguan Government the space needed for the negotiations to progress, without distractions, in spite of the seriousness of the acts that occurred in April.

However, your Government's Army has continued its hostile behaviour against the Honduran villages of Awasbila, Pranza, and Rus-Rus in Gracias a Dios Province, by harassing, provoking, and threatening to use violence. This occurred repeatedly on Saturday the 16th, Monday the 18th, and yesterday, Friday the 22nd of April. My Government also emphatically protests these acts, which are incompatible with the basic principles of international law.

It is obvious that the increase in tensions caused by the systematic violence of the Sandinista Army jeopardizes the already questionable future of the regional peace process. This process has been affected by the Nicaraguan Government's insistence upon using the international legal option instead of the special procedure agreed upon by the Distinguished Central American Presidents.

I hope that your Government will consider these factors and adopt a position in keeping with the demands of this historical moment in which we, as Central Americans, are seeking to resolve our differences in order to help normalize interregional relations.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs.

To His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Republic of Nicaragua.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Official Letter No. 198-DA

Tegucigalpa,
April 21, 1988.

The Minister:

I am writing to Your Excellency in reference to your April 20, 1988 note. In said note, your Government emphatically protests the Honduran Government's authorization of delivery of humanitarian aid to groups of Nicaraguans. This aid was approved by the United States Congress with the affirmative vote of Representatives and Senators from both the Republican and Democratic Parties.

Minister, I consider your protest to be completely unfounded, since the aid in question was approved with the consent of the Nicaraguan Government after a temporary ceasefire was in place, precisely to facilitate the Esquipulas II Accords and Sapoa negotiations, both of which are still in effect.

The Honduran Government has allowed said aid, under the supervision of the Agency for International Development, the Catholic Church, and the private firm of Price Waterhouse, to reach groups of Nicaraguans who are in the country and who do not enjoy the protection of the United Nations High Commissioner for Refugees (UNHCR).

In regard to the action filed by the Nicaraguan Government against the Honduran Government in the International Court of Justice, Your Excellency knows the position of my country since the beginning of the case perfectly well. This can be summarized by saying that any form of negotiation, be it Contadora or Esquipulas, is inconsistent with the legal action brought before the Court. It would be closer to the truth to say that the Nicaraguan Government's obstinate position has repeatedly sabotaged efforts to achieve a regional agreement, by continuing to pursue the lawsuit even after Honduras formulated concrete proposals to resolve border issues. Our request to schedule the next hearing is aimed at preventing Nicaragua from continuing to manipulate this lawsuit before the Court for its own political aims. Thus, Mr. Minister, it is up to your Government whether or not the Guatemala Procedure and the San José Declaration progress or stagnate.

The text of this note will also be sent to the International Court of Justice.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Carlos LÓPEZ CONTRERAS,
Minister of Foreign Affairs.

His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

[Spanish text not reproduced]

Telex No. 716

Tegucigalpa,
April 15, 1988.

Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

I have the honor of writing regarding the message dated April 14, in which Your Excellency suggests Managua as the site for the meeting of the Technical Group charged with negotiating the Treaty of Regional Friendship and Cooperation. This Treaty was mentioned in the Joint Statement of the V Meeting of the Executive Commission.

I am pleased to inform you that the Honduran Government will gladly participate in this meeting as soon as we receive evidence that the irregular situation of the Esquipulas II Procedure has ended with the withdrawal of the lawsuit against Honduras before the International Court of Justice.

It is important to make efforts to conquer the last barriers blocking the normalization of relations in Central America.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Carlos LÓPEZ CONTRERAS,
Minister of Foreign Affairs.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Telex No. 698

Tegucigalpa,
April 12, 1988.

Your Excellency:

On August 7, 1987, the Presidents of the Central American countries signed the "Procedure for the Establishment of a Firm and Lasting Peace in Central America", in one of whose clauses the following was agreed on:

"The Presidents of the Republics of Honduras and Nicaragua, in the belief that it is necessary to strengthen this plan of regional peace, by re-establishing mutual trust, have agreed to instruct their respective Ministers of Foreign Affairs to request that the International Court of Justice defer scheduling the oral phase of the trial on jurisdiction that, *inter alia*, is before that high tribunal, for a period of three months. The Presidents understand that said legal situation will be re-analyzed by them before the meeting of Central American Presidents, to take place in a period of one hundred and fifty days in keeping with the commitment established in this plan, for the purpose of agreeing on the waiver of recourse to international legal action on the Central American Situation."

This clause recognizes the incompatibility of using legal recourse with the implementation and fulfilment of the Special Procedure of Esquipulas II.

Eight months have passed since the adoption of the "Guatemala Procedure" and still the Nicaraguan Government refuses to refrain from recourse to the international legal action in question.

Instead, on March 21 of this year, the Nicaraguan Government submitted a request for provisional protective measures to the International Court of Justice. This request was framed within the lawsuit against Honduras it had filed with that International Tribunal. On March 31, Nicaragua withdrew its request for provisional measures, but not its original lawsuit.

The Honduran Government cannot continue in a state of uncertainty regarding participation in the trial initiated by the Nicaraguan Government before the International Court of Justice. Nicaragua's lawsuit takes up the same issues dealt with in the "Guatemala Procedure". The Honduran Government, reluctantly, has found it necessary to request that the President of said Court set the dates for the hearings in the case "Armed Border and Cross-Border Actions" (Jurisdiction and Admissibility) (Nicaragua v. Honduras).

The Honduran Government is aware of the effect this trial will have on the "Guatemala Procedure". We have systematically stressed this to international organizations in our bilateral relations with friendly countries and those who are a part of the "Guatemala Procedure".

Our Government has taken all possible precautions and has not found any interest by the Nicaraguan Government in ending the legal procedure before the International Court of Justice. Therefore, the Honduran Government declines all responsibility for possible consequences on the Esquipulas II Procedure, as the continuation of the legal claim is not attributable to Honduras.

My Government reiterates its determination to continue participating, in good faith, in the regional efforts aimed at bringing internal peace back to the countries suffering civil wars, and normalizing inter-Central American relations, once the Central American question definitively ceases to be diverted to international legal bodies. This suggestion by Honduras encompasses the proposals made by the Government at the XVII General Assembly of the OAS in November of 1987, and points on the agenda of the Executive Commission of the Esquipulas II Procedure.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Carlos LÓPEZ CONTRERAS,
Minister of Foreign Affairs.

To His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

[Spanish text not reproduced]

S/19753
8 April 1988
English
Original: Spanish.

Letter dated 8 April 1988 from the Permanent Representative of Honduras to the United Nations Addressed to the President of the Security Council

On instructions from my Government, I have the honour to withdraw the request for a meeting of the Security Council next Monday, 11 April, in view of the results of the meeting of the Executive Committee, composed of the Central American Ministers for Foreign Affairs, held yesterday in Guatemala City.

The purpose of the Honduran request was to point out the difficulties and obstacles standing in the way of a positive advance in the current negotiating process and the measures considered necessary to overcome them.

Yesterday, the Executive Committee decided, *inter alia*, on the following:

1. To establish a system of verification and follow-up of the commitments contained in the Guatemala Procedure (Esquipulas II) and in the Alajuela Joint Declaration of the Central American Presidents of 16 January 1988, which, with regard to political matters, will be the responsibility of the National Reconciliation Commissions.

In matters of security, the Executive Committee will request, through the Secretary-General of the United Nations, the co-operation of an auxiliary technical group, composed of specialized personnel of the Governments of Canada, Spain and the Federal Republic of Germany, in setting up the verification, control and follow-up machinery.

2. The Central American Ministers for Foreign Affairs, of whom the Executive Committee is composed, also decided to negotiate a treaty of friendship and regional co-operation, for signature at the sixth meeting of the Executive Committee, to be held in the Republic of Honduras next May.

3. With regard to the agreements adopted, the Minister for Foreign Affairs of the Republic of Nicaragua reported his Government's undertaking to submit to the International Court of Justice notice of the Government of Nicaragua's relinquishment of the claim entered against the Government of Honduras on 28 July 1986, which it will do, at the latest, at the sixth meeting of the Executive Committee in May 1988 in the Republic of Honduras.

4. It should be noted that the Ministers expressed gratification at the forthcoming submission by the Secretary-General of the United Nations of a special plan of economic assistance for Central America, in accordance with resolutions 42/1 and 42/204 of the United Nations General Assembly.

5. Lastly, the Executive Committee called for an international conference on solutions for Central American refugees, co-sponsored by the United Nations High Commissioner for Refugees.

I request you to have this note circulated as a document of the Security Council.

(Signed) Jorge Ramón HERNÁNDEZ ALCERRO,
Ambassador, Permanent Representative.

[Spanish text not reproduced]

April 5, 1988.

Letter Dated 5 April 1988 to the President of the Security Council from the Permanent Representative of Honduras to the United Nations

I have the honor of writing to Your Excellency pursuant to instructions from my Government to request that you convene the Security Council on Monday, April 11, 1988, to discuss the collateral effects of the pacification of Nicaragua on the situation in Central America, and the maintenance of peace and security in the region, in view of recent events.

(Signed) Jorge Ramón HERNÁNDEZ ALCERRO,
Ambassador.

[Spanish text not reproduced]

A/42/943
S/19678
English
Page 2

Annex

Communication Dated 23 March 1988 Sent to the Minister for Foreign Affairs of Nicaragua by the Minister for Foreign Affairs of Honduras

I am writing to you in order to inform the Government of Nicaragua about the incidents to which I refer below and to register the most vigorous protest on the part of the Government of Honduras.

Yesterday, 22 March 1988, at 2000 hours, approximately 50 soldiers from the Sandinist People's Army violated the Honduran frontier, entering our country through the Pico Español sector, Department of El Paraíso.

Almost simultaneously, a unit of the Sandinist People's Army, containing an estimated 300 soldiers, crossed the frontier and entered our country in a further incursion through the Bocay sector, Department of Olancho.

In presenting to the Government of Nicaragua the Honduran Government's extremely vigorous protest because of these incidents, which infringe our sovereignty and are a clear-cut and patent violation of international law, and for whose results the Government of Honduras cannot be held responsible, I must also state that acts of provocation and aggression of this nature tend to aggravate the already tense situation on the frontiers of our two countries.

Carlos LÓPEZ CONTRERAS,
Minister.

[Spanish text not reproduced]

Official Letter No. 025-DSM

Tegucigalpa, D.C.,
March 16, 1988.

The Minister:

I am writing to Your Excellency to inform you that between 1,000 and 1,500 Sandinista People's Army soldiers have invaded Honduran territory in the area where the Bocay River flows into the Coco or Segovia River, south-east of Olancho Province. The attack was preceded by artillery and aerial bombings.

This is a clear armed aggression against the State of Honduras accompanied by the consequent violation of its territory and airspace.

It constitutes, moreover, a violation of the UN Charter, OAS Charter, and Inter-American Treaty of Reciprocal Assistance, which are all instruments that proscribe the use or threat of force in international relations.

In the face of these serious and unjustified events, my Government emphatically protests. We request the immediate withdrawal of invading troops and forewarn the Nicaraguan Government that we will adopt measures necessary to exercise our legitimate right to defense, provided for in Article 51 of the UN Charter.

In closing, I assure Your Excellency of my utmost esteem and consideration.

Carlos LÓPEZ CONTRERAS,
Minister.

To His Excellency
Don Miguel d'Escoto,
Minister of Foreign Affairs,
Managua, Nicaragua.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Official Letter No. 015-CAYM-88

Tegucigalpa, D.C.,
March 1, 1988.

The Minister:

I respectfully write to Your Excellency to submit an emphatic protest to Nicaragua's illustrious Government for the following action:

On February 20, a boat from the Nicaraguan naval fleet captured a small boat owned by Honduran citizen Ernesto Contreras in Honduran national waters, co-ordinates 13-01-45 latitude north and 87-24-05 longitude west. The captured boat was sail and paddle propelled, four metres long and one metre wide, without name. The boat's crew were also taken into custody: German Israel Casco, 22 years old; Gilberto Rios, 23 years old; and Teodoro Amador,

22 years. All three are Honduran citizens who were taken to Nicaragua along with the boat.

I emphatically protest these events and request the immediate release of citizens Casco, Rios, and Amador, and the return of the captured boat. Once again, I call on the illustrious Government of Nicaragua to take appropriate steps to avoid repetition of acts such as these. These types of acts have occurred frequently and have seriously harmed Honduran fishermen, causing fear and uneasiness which disrupts their honest work of fishing in purely Honduran waters.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs.

To His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Official Letter No. 011-CAYM-88

Tegucigalpa, D.C.,
February 24, 1988.

The Minister:

I respectfully address Your Excellency in order to make a vigorous protest to the illustrious Government of Nicaragua over the following events:

On February 4 of this year, a Sandinista People's Army patrol penetrated Honduran territory in the Las Minas sector, Duyusupo jurisdiction, Choluteca province. The patrol fired on Honduran citizens Boanerges Betanco, Elmer Osorio, and Rolando Betancour.

Citizen Elmer Osorio was mortally wounded, passing away a few moments later. Mr. Betanco, who tried to assist him, was brutally decapitated. The third victim, Mr. Rolando Betancour, was wounded in the right foot but was able to flee to the village of Las Delicias and is now receiving medical treatment in Choluteca.

The Honduran Government, in vigorously protesting to the illustrious Nicaraguan Government the violation of Honduran territory, the murders of Misters Osorio and Betanco, and the serious wounds inflicted on the citizen Betancour, also requests a prompt and thorough investigation of the events by your Government, that the guilty be punished, and strict orders be issued

to avoid a repetition of these criminal acts which interrupt the relative harmony in the border zone in recent months.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Carlos LÓPEZ CONTRERAS,
Minister.

His Excellency
Miguel d'Escoto,
Minister of Foreign Affairs of the Republic of Nicaragua,
Managua, Nicaragua.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Feb. 20, 1988.

The Ministers:

In September 1984, in San José, Costa Rica, the European Community, its member States, and the Central American States initiated a new political and economic dialogue between the two regions, with the participation of the Contadora Group. The aim of that dialogue was to strengthen the efforts of Central American countries to promote peace, social justice, economic development, respect for human rights and democratic freedoms in the region.

At the time, Central America faced a crucial point in what has been the longest, most painful and most complex crisis in its history.

The outbreak of armed conflicts in some countries of the region, which were exploited by foreign interests, unleashed strong international tensions that many believed could lead to a break in peace that would tragically involve the entire isthmus.

Fortunately, a process of negotiation was initiated between the Central American countries, in search of a peaceful, just, and lasting solution to the crisis being experienced.

That process of negotiation, inaugurated under the auspices of the Contadora Group, deserves special mention. Contrary to pessimistic predictions, the invaluable efforts of the Governments of Colombia, Mexico, Panama, and Venezuela, were a success. Not only did they make dialogue between Central American countries possible, which was difficult, but they also aided us in finding points of agreement broad enough to take us to the next stage. A new initiative, product of the Central American region, culminated in the signing, on August 7, 1987, of the "Procedure for the Establishment of a Firm and Lasting Peace in Central America".

The Contadora Group's tremendous work in helping us find the road to peace, democracy, and development in Central America, and their dedication to our cause, deserves, fellow Ministers, our most profound appreciation.

Since the last draft of the "Contadora Proposal for Peace and Co-operation in Central America" was put forth in June 1986, and left unsigned, a gap in negotiations was produced. This occurred in spite of the fact that Central American countries were in overwhelming agreement on solutions for prob-

lems of the crisis. However, still pending were accords on limitation, control, and reduction of armaments and military personnel, regulation of international military manœuvres, and mechanisms of verification and control.

Under those circumstances and in view of the need to find a formula for renewing momentarily interrupted negotiations in the region with a reasonable possibility of success, the President of the Republic of Costa Rica, Oscar Arias Sánchez, submitted a new initiative. This turned out to be a viable, timely, and constructive instrument to contribute to normalization on the Central American isthmus. The initiative of President Arias was the object of dynamic study and received support from the various Central American Governments. It led us to the signing of the "Procedure for the Establishment of a Firm and Lasting Peace in Central America", in Guatemala City.

This is an appropriate forum in which to recall that the President of Costa Rica was honored with the Nobel Peace Prize for an initiative that has allowed Central Americans to get on the road to consolidating peace, democracy, and development.

We feel proud and honored by that effort, which has resulted in the joint action of Central Americans defining our own future.

The "Guatemala Procedure" is a balanced system of compromises whose fulfilment leads to a solution of the regional crisis. In that vein, internal obligations have been outlined to end deep political differences among the citizenry of certain States, and aid consolidation of democratic institutions in all the region's countries.

Those measures, provided for in the Esquipulas Accord, are to be complemented by others directed at guaranteeing respect by each of the region's countries, or outside countries, for the principle of non-intervention in the internal affairs of others.

Additionally, the five States would pursue negotiations on the pending issues of security, verification, and control of the draft "Contadora Proposal for Peace and Co-operation in Central America". These discussions would take place with the Contadora Group serving as mediator.

To settle our differences as soon as possible, we Central Americans set up a system of short periods to comply with the obligations undertaken, during which all of us have made efforts to comply with Esquipulas II.

There is no denying that obstacles still persist in Central America's peace process, but today a spirit of understanding reigns in the region. This leads us more and more each day to a democratic and peaceful destiny accompanied by the social well-being our peoples deserve.

Much progress has been made. And much remains to be done. The Executive Commission, body delegated by the Central American Presidents and composed of Ministers of Foreign Affairs of the region's five countries, has been charged with driving forward compliance with each and every one of the obligations assumed. *It continues a process of discussion, having scheduled its next meeting for March. There, complementary proposals on democratization and security will be taken up.*

For us, as Central Americans, it is evident that the primary responsibility for success or failure of the "Procedure for the Establishment of a Firm and Lasting Peace" and security in the Central American countries rests with us. I say that without ignoring that there are foreign factors and interests whose presence can favorably or unfavorably affect the Central American situation. We are aware that, to the degree that we are sufficiently proficient in uniting to unleash ourselves from negative aspects of external factors, and changing interest shown in our region by many of the world's nations into effective

political and economic support, then the possibilities for success in peace and development will be substantially increased.

Peace and development, just as justice and liberty, are inseparable factors that mutually condition and aid each other. In the belief that consolidation of democracy implies the full reaffirmation of our own independence and sovereignty, as well as the creation of a system of social well-being, of economic and social justice, the Governments agree to make a joint proposal for special economic aid from the international community.

The continued advance of the peace process requires an improvement in the standard of living of layers of the Central American population who live in a state of critical poverty.

Aware of the enormous responsibility that we have assumed, as well as the interrelation in the economic and social life of the five states of the region, we have jointly initiated design of an immediate Action Plan that contains a strategy for regional development.

That Action Plan, whose broad outlines are already known by the European Community, mainly contains steps for meeting urgent needs produced by the current situation.

The emergency plan has identified the following most pressing problems:

1. Securing food supplies for the Region.
2. Attention to repatriation and relocation programs for refugees and displaced persons.
3. Economic reactivation of Central America.
4. Secure fuel supplies.
5. The foreign debt.

Secondly, the Action Plan foresees measures and programs in the short- and medium-term to reactivate general integration and social development.

In this way, it tries to strengthen intra-regional trade, strengthening regional payment and finance mechanisms, to raise levels of production and exchange rates.

To be able to sustain its development, Central America also needs to drive forward its reinsertion into the international economy. Plans to promote and diversify exports to third countries are in the making. For this, it is necessary to have access to international markets, frequently made difficult by protectionist measures.

Additionally, the Action Plan contains provisions for improving all productive activities in the region, and strengthening regional institutions of Central American integration.

In the Esquipulas Procedure, the Central American Presidents said, "We have plans for peace and development, but we need help in making them a reality. We request the international treatment that will guarantee development, so that the peace we seek will be lasting."

In answer to that call, the XLII Regular Session of the United Nations General Assembly in 1987 approved two resolutions designing a development plan for the region, and urging the international community to "increase its technical, economic, and financial assistance to Central American countries, as a means of reinforcing their efforts towards peace and development".

The Action Plan elaborated by Central Americans themselves and the one which I have referred to, is the backbone of what the Secretary-General of the United Nations will present to the General Assembly no later than April 30 of this year.

We hope that the presentation of the plan in question to the international community will afford it an opportunity to concretize the verbal support it has so often given to our Central American peace and development efforts.

I would like to emphasize the fact that development is an indispensable element for attaining peace. In our opinion, the argument that peace and stability must be in place in Central America before moral and material support to the region can be offered, is unjustifiable.

Ministers:

Since the Esquipulas Accord was signed, the Central American situation has varied substantially. All Central American countries have significantly advanced in complying with the commitments assumed, and we are determined to fully comply with all of those commitments.

We are aware, I repeat, that only our determination will make peace, democracy, justice, and freedom in Central America a reality. In that belief, we have taken steps of great consequence. In that spirit, we have strengthened our common institutions and reinvigorated the interrelation that exists between us at all levels. With that intention, we signed the Treaty that institutes the Central American Parliament as a symbol of the freedom, independence, and reconciliation to which we aspire in Central America.

The European Community, Ministers, is for us an inspiring example. Of the twelve States that compose it, many were protagonists in some of the cruellest conflicts of history in the not so distant past. Visionary statesmen, thinkers from all of Europe, could understand the necessity of integrating their distinct parts into one whole. You have made the dream of José Ortega y Gasset possible, who in 1930 already said,

“The unity of Europe is not a fantasy, rather reality itself, and the fantasy is exactly the opposite: the belief that France, Germany, Italy, or Spain are substantial and independent realities”,

concluding that,

“. . . only the decision to construct one great nation of all the continental peoples will revive the pulse of Europe. This will give it confidence, it will automatically demand more of itself and discipline itself.”

That integrationist dream is our dream also. Hopefully, we will be capable of making it a reality, following your footsteps.

Europe's efforts in support of peace and harmony are not limited to your own continent, rather they project themselves all the way to geographically far away Central America, in a convergence of common efforts for peace, democracy, and understanding between peoples. This meeting is a part of the dialogue which is proof of that.

Permit me, Ministers, to raise my voice in the name of the Central American countries, to honor the Minister of Foreign Relations of the Federal Republic of Germany, Don Hans Dietrich Genscher, whose dedication and personal determination played an important role in bringing about dialogue between Central America and the European community.

END.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF HONDURASOfficial Letter
No. 010-CAYM-88Tegucigalpa, D.C.,
February 19, 1988.

The Minister:

I respectfully write to Your Excellency to inform you that on February 17 of this year, several Honduran fishermen were intercepted, attacked, and forcibly dispossessed of 15 pieces of fishing equipment by 1 of 2 Sandinista Navy vessels that penetrated Honduran waters.

The affected fishermen reported this action to the director of the Punta Condega post, Alferez de Fragata C. G. Efrain Mann Hernandez, who proceeded to carry out an investigation. As he headed towards the two Sandinista Navy vessels in the El Conchal area, co-ordinates latitude 12° 59' north and 87° 24' latitude west, one of which had dispossessed the Honduran fishermen of their fishing equipment, they opened fire with automatic weapons and fled towards Nicaragua.

The action described is both a violation of Honduran sovereignty, and an armed attack on our National Navy unit. The Honduran Government emphatically protests these acts to the illustrious Government of Nicaragua. At the same time, we request that your Government investigate the facts, sanction those responsible, and institute urgent measures to avoid a repetition of actions harmful to the peaceful coexistence that the Central American people yearn for.

In closing, I assure the Minister of my utmost esteem and consideration.

Respectfully,
(Signed) Carlos LÓPEZ CONTRERAS,
Minister.

To His Excellency
Doctor Miguel d'Escoto,
Minister of Foreign Affairs
of the Republic of Nicaragua.
Your Information.

[Spanish text not reproduced]

Telex No. 244

Tegucigalpa, D.C.,
February 4, 1988.

The Minister:

I have the honor of writing to Your Excellency regarding the message I sent yesterday. In it, we scheduled a technical meeting to work out a political statement for San José IV for February 15 and 16 in Tegucigalpa. We also suggested that a meeting of Foreign Ministers be held immediately after the first meeting, also in Tegucigalpa, to prepare for the Hamburg meeting.

With regard to the latter meeting, the Salvadoran Foreign Ministry has suggested that the Executive Commission meet on that same date to deal with issues related to Esquipulas II and discuss the Central American position at San José IV. I take this opportunity to inform Your Excellency of my Government's consent to travel to San Salvador on February 17 and 18 for the purposes outlined. I do so with the understanding that the other Central American countries are in agreement.

I await your prompt response regarding the delegation that will attend the technical meeting in Tegucigalpa on behalf of your country.

In closing, I assure Your Excellency of my utmost esteem and consideration.

Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs of Honduras.

His Excellency
Miguel d'Escoto B.,
Minister of Foreign Affairs,
Managua, Nicaragua.

[Spanish text not reproduced]

The Minister:

I have the honor of writing to Your Excellency regarding preparations for the Fourth Meeting of Foreign Ministers from the European and Central American Community (San José IV).

First of all, I am pleased to inform Your Excellency that a meeting has been called for February 15 and 16 in Tegucigalpa to work out a political statement to be issued in Hamburg. This meeting, subject to the agreement of the region's countries, will be of a technical nature. We urgently request that Your Excellency inform us of the composition of your country's delegation as soon as possible.

Secondly, we support the Guatemalan Ministry's suggestion that a meeting of Foreign Ministers take place immediately after the technical meeting, in the region, to define the Central American position in this matter. For practical reasons, I propose that the second meeting take place in Tegucigalpa on February 17. I trust that Your Excellency will agree with this suggestion. I await your answer regarding this.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Guillermo CACERES PINEDA,
Acting Minister of Foreign Affairs.

His Excellency
Ricardo Acevedo Peralta,
Minister of Foreign Affairs,
San Salvador, El Salvador.

His Excellency
Miguel d'Escoto Brockmann,
Minister of Foreign Affairs,
Managua, Nicaragua.

His Excellency
Alfonso Cabrera Hidalgo,
Minister of Foreign Affairs,
Guatemala.

His Excellency
R. Rodrigo Madrigal Nieto,
Minister of Foreign Affairs,
San José, Costa Rica.

3 February 1988.

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MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF HONDURAS

Official Letter No. 003-DA

Tegucigalpa, D.C.,
January 8, 1988.

Honorable Sirs:

In accord with the meeting held yesterday afternoon, the Government of Honduras would like to confirm the statements pronounced by the President of the Republic, the Honorable José Azcona H., commenting upon the cessation of aid to irregular forces or insurreccional movements.

In the second half of October 1987, during a visit to the United States of America, the President stated: "There should not be military aid (to the *contras*) because it violates the Guatemala Accord", insisting that only non-lethal aid should be provided in the framework of the Guatemala agreement.

Moreover, the Minister of Foreign Affairs, Carlos López Contreras, in a public event held on September 10, 1987, stated:

"We have been pleased to learn that the illustrious Government of El Salvador, demonstrating its firm will to seek peace, has already organized the National Reconciliation Commission and other commissions it considers necessary to implement the Guatemala Accord. We trust that the irregular armed groups that operate in El Salvador will accept this Peace Accord, as well as the call of all Central American Presidents, by agreeing to a cessation in hostilities to reach national reconciliation."

In his speech before the XVII General Assembly of the Organization of American States, the Minister López Contreras said that:

"By making the public call for ceasing military aid to irregular forces, we trust that it will be accepted and complied with by all States

involved in that type of activity, including those that obstinately deny it, in spite of evidence to the contrary.”

In closing, I assure the Honorable *Ad Hoc* Representatives to the International Commission for Verification and Follow-Up, of my utmost esteem and consideration.

(Signed) Guillermo CACERES PINEDA,
Deputy Minister of Foreign Affairs.

Honorable Sirs,
Ad Hoc Representatives of the
International Commission for
Verification and Follow-Up,
Tegucigalpa.

[Spanish text not reproduced]

1988 Notes from Nicaragua to Honduras

MINISTRY OF FOREIGN AFFAIRS, MANAGUA, NICARAGUA

Managua, May 17, 1988.

The Minister:

I have the honor of writing to Your Excellency regarding the mechanism that our Governments established to facilitate voluntary repatriation of Nicaraguans from Honduras, with the collaboration of the United Nations High Commissioner for Refugees (UNHCR). In an exchange of diplomatic notes between our respective Ministries of Foreign Affairs dated June 13 and July 2 of 1986, we agreed on said mechanism.

The Nicaraguan Government designates Ambassador Danilo Abud Vivas as Official Liaison with the Honduran Government to co-ordinate all matters related to repatriation. Ambassador Danilo Abud Vivas replaces Doctor Oscar Ramon Tellez, Director of Latin America and the Caribbean.

I am sure Ambassador Abud Vivas will be able to rely on your illustrious Government's assistance at all times, to the advantage of the important aims guiding co-operation efforts to facilitate voluntary repatriation.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Most Excellent Sir,
Carlos López Contreras,
Secretary of Foreign Affairs of Honduras.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUAManagua,
May 16, 1988.

IA. NO.

The Minister:

I am writing to Your Excellency in reference to the serious events outlined below.

On April 28 of this year, members of the Honduran Armed Forces intruded on Nicaraguan territory and kidnapped Nicaraguan citizen, José Bonifacio López. Mr. López was Secretary of Records for the only Court of Santo Tomas del Norte, in Chinandega Province. According to available reports, the individual kidnapped was transferred, blindfolded and handcuffed, to Choluteca city, where he is in fact imprisoned.

The Nicaraguan Government vigorously protests this flagrant violation of Nicaraguan sovereignty, and kidnapping of a citizen of my country.

These events oblige me to request that the Honduran Government immediately release José Bonifacio López, and carry out a thorough investigation to clarify the facts and impose the corresponding punishment on military personnel found to be involved.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

His Excellency
Carlos López Contreras,
Minister of Foreign Affairs of Honduras.

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MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

Managua,
May 13, 1988.

The Minister:

According to information published in the May 12 edition of the Honduran newspaper *La Prensa*, soldiers from your country's Armed Forces apprehended Diogenes Hernández Membreño (Fernando), a leader of the so-called Nicaraguan Resistance. The information indicated that he was to be deported yesterday, Thursday, to the United States.

Today, May 13, that information was corroborated in an article by Sam Dillon published in *The Philadelphia Inquirer*, where it states:

"Honduran authorities have detained Diogenes Hernández, *contra* dissident officer, thereby neutralizing his efforts to remove Enrique Bermudez. According to *contra* sources and other agencies, Hernández was taken by helicopter from his mountain camp near the Nicaraguan border to a Honduran military base. A Honduran based officer said that Honduran authorities would very likely deport Hernández to Miami." (*TN: translated from the Spanish.)

Minister, once again, I am obliged to emphatically protest your Government's conduct in support of the Reagan Administration's criminal policy by permitting your territory to be used as a base of aggression against Nicaragua, and ultimately intervening in *contra* internal disputes on the side of combative, anti-Sapoá, and anti-Esquipulas sectors.

I must also express my concern, Minister, regarding the Honduran practice of systematically ignoring a large part of our communications during these moments of great tension. This policy of indifference to our diplomatic notes does not in any way contribute to creating the atmosphere of peace and co-operation that your illustrious Government says it is interested in advancing. In this context, I must refer to my note dated May 9, 1988, in which I protested the detention and "deportation" of Walter Calderón López (Toño), a signer of the Sapoá Accord. On that occasion, I requested exact information on the place, date, time and means of transportation by which the "deported" Nicaraguans arrived in the United States, in the interest of "clearly establishing the fate of *contra* leaders mentioned and the conditions under which they were 'deported'".

Unfortunately, my request was never answered.

On this occasion, I hope to receive a prompt response to our request for consular access. This request was made by the Nicaraguan Embassy in Honduras in a diplomatic note delivered today and is in keeping with the Vienna Convention on Consular Relations.

I insist, Minister, that repressive measures against members of the so-called Nicaraguan Resistance who are signatories to the Sapoá Accord — while Somocista Enrique Bermudez remains free — constitute clear proof of your Government's complete involvement in President Reagan's policy against Nicaragua. They are also a clear demonstration of efforts to hinder signing of a definitive ceasefire in Nicaragua and fuel the continuation of war.

The Honduran Government's conduct proves the justness of Nicaragua's position in proceeding with the lawsuit brought against your country before the International Court of Justice. This lawsuit was unilaterally reactivated by Honduras, thereby rejecting Nicaragua's generous offer to withdraw it. For this reason, my Government is obliged to withdraw said offer.

Under these circumstances, we will have to settle the issues raised in Nicaragua's lawsuit before the International Court of Justice. We will continue to reject Honduras's attempts at blackmail with respect to the Esquipulas II Accords, that, moreover, your country has not complied with in any way.

The Nicaraguan Government calls on Honduras to exercise wisdom and moderation, in hope that your Government's conduct does not obligate us anew to request Provisional Protective Measures before the International Court of Justice. This time such a request would not be withdrawn.

A copy of this note will be sent to the President of the International Court of Justice, the President of the Security Council for distribution as an Official Document, the Secretary-General of the United Nations, and the Secretary

General of the Organization of American States, as well as the Governments that make up the Contadora and Support Groups.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Most Excellent Sir,
Carlos López Contreras,
Minister of Foreign Affairs of Honduras.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

IA. NO.

The Ministry of Foreign Affairs presents its compliments to the Honorable Honduran Embassy. On this occasion we are sending you a transcription of Note No. 225 dated April 27, 1988, in which the Colombian Embassy in Managua requests that the Nicaraguan Government intercede on its behalf before the Honduran Government to secure the release of Colombian citizen Tomas Miguel Ruiz Mont. Mont was kidnapped by forces of the counterrevolutionaries on March 20, 1986, and is being detained in Honduran territory. Following is the text of their communication:

"The Colombian Embassy presents its compliments to the Honorable Ministry of Foreign Affairs. Please permit us to courteously and respectfully request that the Honorable Nicaraguan Ministry of Foreign Affairs have the good will to intercede before the Honduran Government in the case of Colombian citizen Tomas Miguel Ruiz Mont. His situation is well known (see notes regarding this dated April 9, 1986 and AJ-020 dated August 22, 1986). Our request, in light of the Sapoa Accords, is that the aforementioned citizen be released to the Nicaraguan Government, and that, in turn, your Government release him to the Colombian Government for his repatriation. Our request is based on reliable reports in our possession that Colombian Tomas Miguel Ruiz Mont was kidnapped by counterrevolutionaries on March 20, 1986. He was kidnapped in the Zelaya Norte region as he accompanied the Director of the company "COMADECASA", Omar Castillo Rojas, who is Nicaraguan. Our sources of information indicate that Ruiz Mont was seen in the neighboring country between April 20 and 25 of 1986, and it is very likely that he is still under detention by counterrevolutionary forces that operate from Honduran territory."

In closing, the Ministry of Foreign Affairs assures the Honorable Honduran Embassy of our utmost esteem and consideration.

Managua, May 12, 1988.

To the Honorable Embassy of Honduras,
Managua, Nicaragua.

[Spanish text not reproduced]

S/19882

ANNEX

*Letter Dated 9 May 1988 from the Minister for Foreign Affairs of Nicaragua
Addressed to the Minister for Foreign Affairs of Honduras*

For years, your enlightened Government has turned a deaf ear to the numerous protests made by the Government of Nicaragua at your policy at allowing the *contras* to turn Honduran territory into a springboard for aggression against our people with the support, often direct, of the Honduran armed forces.

Your Government has always chosen to deny publicly what everyone knows to be an irrefutable fact. In private, it has always said that it is unable to prevent the *contras* from using Honduran territory, claiming that it could not withstand the inevitable reprisals which the United States Government would take if Honduras were to show independence. Honduras has done nothing to change its policy even since the signing of the Esquipulas II agreements.

Now that the Sapoá agreement has been signed and that the possibility of peace is, for the first time, drawing within reach, the Government of Honduras has finally decided to take action against leaders of the *contras*. In order that, in the words of a communiqué issued by the armed forces on 6 May, Honduras "should not become involved in the internal affairs of other nations", the Honduran authorities proceeded to arrest and expel from the country "seven leading members of the Nicaraguan resistance".

Curiously enough, the individuals arrested and imprisoned by the DNI are precisely those leaders who say that they are for peace and for compliance with the Sapoá agreement, which involves signing a definitive cease-fire agreement. Moreover, two of the arrested, Walter Calderón López (Toño) and Diogenes Hernández Membreño (Fernando), are, as a *Herald* article of 6 May indicates, signatories to the Sapoá agreement. In other words, Honduras has taken the reprehensible step of interfering in the internal struggle among the *contras* and of siding with those elements who want to pursue the war.

The Government of Nicaragua lodges a vigorous and categorical protest at this action by the Honduran Government, which is unquestionably further proof of your Government's deep commitment to the cause of terrorism, death and destruction against Nicaragua.

Lastly, we have learned of the note sent to a Honduran newspaper and signed by most of the arrested *contra* leaders who, according to the above-mentioned communiqué of the armed forces, have been "deported" to the United States. These Nicaraguan citizens feared for their lives, and say as much in their note. Accordingly, we request your enlightened Government to inform us precisely where, when and how these Nicaraguan "deportees" arrived in the United States. The Government of Nicaragua is naturally interested in establishing precisely what has happened to the above-mentioned *contra* leaders and under what circumstances they were "deported".

Copies of this note will be sent to the President of the International Court of Justice, the Secretary-General of the United Nations, the Secretary General of the Organization of American States and the President of the United Nations Security Council.

Miguel d'ESCOTO BROCKMANN,
Minister for Foreign Affairs.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUAManagua,
May 6, 1988.

The Minister:

I am writing to Your Excellency to protest the following actions:

On May 4 of this year, two "Pirana" type boats originating from the Honduran naval base of Amapala invaded Nicaraguan jurisdictional waters. They attacked Sandinista People's Army positions on the Bocana seaboard, one kilometre south-east of Potosi, in Chinandega Province. During the onslaught, M-50 heavy machine gun and rifle fire were used. Nicaraguan military authorities repelled the assault and forced the attacking boats to return to their place of origin.

In view of this attack, the Nicaraguan Government is obliged to once again lodge a vigorous protest. Actions such as those reviewed above are serious violations of Treaties in effect, and of norms of general and common international law.

My country's Government insists that Honduran authorities adjust their conduct in keeping with the order of international law, in particular, by impeding use of Honduran territory for acts of destabilization against Nicaragua, and hindering the repetition of these deeds. The continuation of these actions weighs negatively on efforts to reach a just and lasting peace in Central America.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Excellency
Carlos López Contreras,
Minister of Foreign Affairs of the Republic of Honduras.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUAManagua,
April 29, 1988.

The Minister:

I must categorically reject the protest note of April 23 sent by Your Excellency. This note attempts to attribute to my country's Army an attack against the Honduran village of Suji, as well as harassment against the villages of Awasbila, Pranza, and Rus-Rus.

A Honduran Armed Force statement issued on April 23 tries to convey that the UNHCR verified "dead and wounded, as well as material damage

left by Sandinista troops". This was denied by the UNHCR in an April 26 note where it affirms that "this office has not been invited to visit affected zones . . . to verify the supposed existence of wounded, dead, or material damage".

Likewise, the UNHCR points out in the note that "the circulation of this version occurs at a particularly successful moment of our work", given the number of repatriations that have been carried out. In the judgment of my Government, this situation creates serious suspicions about hidden intentions underlying the unsustainable accusations contained in your note.

Based on contacts with some of the 164 repatriated individuals who arrived in Nicaragua from Honduras last Tuesday via the Leymus post, it can be deduced that a confrontation between the Honduran Army and Yatama forces occurred at Suji. Consequently, there was no participation from my country's Army. Similar confrontations had taken place in the Awawas and Awaslala sectors on April 19 and 21, with the capture of almost one hundred Nicaraguans being reported.

In accord with this testimony, it has been established that the cause of attacks by Yatama forces rests in the innumerable abuses, repressive acts, and persecution against Nicaraguan citizens of Miskito origin.

According to reports, the conduct of your country's Army ranges from harassing motorists who transport the repatriated, illegally confiscating motors from the boats used in the repatriation, up to and including repressive and arbitrary measures in refugee camps. These measures have gone as far as using physical violence against refugees and imposing obstacles to the repatriation of young people.

The following are among the cases cited:

"On January 27, 1988, the citizen Otoniel Gomez was murdered by an officer of the V Military Battalion of Honduras, in a place known as Wis-Wis.

On March 28, a small boat that was transporting a corpse back to the community of Krin Krin, was detained by the Honduran Army at the border post of Pranza. They searched the crew members and treated the cadaver disrespectfully.

Throughout this year, Miskito villages at the point known as Waspukta have been the object of searches and pressures by the Honduran military.

Since March 15, Honduran military personnel have repeatedly violated Nicaraguan sovereignty by crossing the border and carrying out arbitrary actions in villages such as Wiwinack.

The Honduran military virtually impedes free transit to the communities, in the stretch that goes from Asang to Santa Isabel."

The Nicaraguan Government firmly and emphatically condemns the repressive acts committed against Nicaraguan citizens of Miskito origin, as well as the violations of our national sovereignty. We request an immediate and definitive end to this intolerable situation.

An integral solution to this problem would include facilitating voluntary repatriation and preventing an increase in repression against refugees due to these reports. In order to seek such a solution, the Nicaraguan Government requests that the Honduran Government allow a Government Delegation to carry out an on-site inspection in the refugee camps. This visit would be a key factor in accelerating the repatriation of all Nicaraguan citizens of Miskito origin who are in Honduras.

In closing, I assure Your Excellency of my highest esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

His Excellency
Carlos López Contreras,
Minister of Foreign Affairs of the Republic of Honduras.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

Managua,
April 27, 1988.

The Minister:

Once again, the Honduran Government has answered a message of the Nicaraguan Government with a *fait accompli*. A recent case, is the letter sent by President Daniel Ortega to President José Azcona in response to concerns of Honduras. President Ortega expressed our willingness to withdraw the lawsuit before the International Court of Justice if the Government of your country took concrete steps to re-establish the rule of international law in relations between the two States. Your Government's answer to Nicaragua's generous proposal was to request the scheduling of public hearings (June 6) before the International Court of Justice which Nicaragua had frozen.

Undoubtedly, this action by Honduras can only be interpreted as an official rejection of our proposal for the withdrawal of the lawsuit, obliging us to cancel our offer — as we have, in effect, done — and move forward in the judicial procedure without further setbacks, as Honduras requested.

Today, your country's Government again answered a communication from Nicaragua by means of a *fait accompli*. On April 22, President Ortega spoke with President Azcona by telephone to voice his concern over the Honduran Government's illegal authorization for US Administration "assistance" to be delivered to irregular forces in Honduran territory via AID. He amply explained to the President of Honduras the need to hinder Honduran territory from being used for such illicit aims since said authorization is inconsistent, in absolute terms, with the Esquipulas II Accords, the Sapoá Accord, and even the interventionist law approved by the Congress of the United States. This concern of Nicaragua had also been expressed in a letter I sent to Your Excellency dated April 20, which has yet to be answered.

President Azcona offered to respond to the concerns expressed by President Ortega (in the April 22 telephone conversation) on April 23. The answer to both my letter and President Ortega's message arrived by means of accomplished fact. Today, April 27, the Honduran Director of Information and Press announced that a US Air Force airplane unloaded 38,000 pounds of so-called "humanitarian aid" for irregular forces in Honduran territory.

That was your Government's answer: allow the illegal delivery of "aid"

characterized as contrary to and "incongruous" with the Sapoá and Esquipulas II Accords by a Member of the Sapoá Accords Verification Commission. Those were the words of João Clemente Baena Soares in a letter sent to the Secretary of State of the United States.

Honduras is not a signatory to the Sapoá Accord, certainly, but it is a signatory to Esquipulas II and the United Nations Charter. By disregarding your commitments under Esquipulas II and the United Nations Charter in making illegal aid available to the *contras*, Honduras is sabotaging the Sapoá Accord and putting the success of Nicaragua's peace process into danger.

In view of this situation, Nicaragua calls on the Honduran Government to publicly declare its irrevocable intention to stop allowing use of its territory for delivery of illegal aid to irregular groups.

The Nicaraguan Government awaits a prompt and complete answer to its legitimate proposals. If silence, or facts themselves, reveal Honduras's intention to continue obstructing the peace efforts, then Nicaragua will request an urgent and extraordinary meeting of the Executive Commission. At the same time, and depending on the evolution of events, Nicaragua will consider actions before the Security Council of the United Nations and the International Court of Justice, where the case brought by Nicaragua has been reactivated by will of the Republic of Honduras.

In closing, I assure Your Excellency of my highest esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Excellency
Carlos López Contreras,
Minister of Foreign Affairs of Honduras,
Tegucigalpa.

[Spanish text not reproduced]

NOTE FOR THE MINISTERS OF GUATEMALA, HONDURAS,
EL SALVADOR AND COSTA RICA

Managua,
April 26, 1988.

The Minister:

I have the honor of writing to Your Excellency to invite you to designate a representative who would travel to Managua to negotiate a Treaty of Regional Friendship and Co-operation. This treaty would adhere to the framework agreed upon in the Statement issued at the end of the V Meeting of the Executive Commission, and should be signed at the VI Meeting of the Executive Commission to be held in the Republic of Honduras in May.

In light of the fact that it was not possible for the Technical Group that was to negotiate the terms of the Treaty to meet on the date proposed in my Note of April 14, I would like to suggest May 4 and 5 of 1988.

I would highly appreciate hearing of Your Excellency's acceptance of this offer as soon as possible. In case your answer is positive, please forward the

name of the official who will participate in the Technical Group, as well as the flight and time of arrival in Managua.

In closing, I assure Your Excellency of my utmost esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Excellency,
Minister of Foreign Affairs of . . .

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S/19831

ANNEX II

*Letter Dated 20 April 1988 from the Minister for Foreign Affairs
of Nicaragua to the Minister for Foreign Affairs of Honduras*

I have the honour to refer to the authorization given by the Government of your country for the United States Administration, through the Agency for International Development (AID), to provide "aid" to the irregular forces that are in Honduran territory. Such authorization is mentioned in a press release issued by the information and press office of your country's Ministry of Foreign Affairs on 19 April 1988.

The Government of Nicaragua registers a strong protest at the fact that Honduras is, once again, acting in clear violation of the spirit and the letter of Esquipulas II and interfering in the proper implementation of the agreement signed at Sapoá, by lending itself to the manœuvres of the Government of the United States, the sole objective of which is to sabotage peace efforts.

As you will recall, under section 5 of the Esquipulas II Agreement, it is "vital" for the attainment of peace that any kind of aid to the irregular forces be terminated, except that intended for "the repatriation or, failing that, the relocation and necessary assistance with reintegration into normal life of former members of such groups or forces".

Logically, such an exception cannot apply in the case of armed groups that are in Honduras and that openly declare their decision to disregard the Sapoá agreement and continue terrorist acts against Nicaragua.

We cannot omit to point out that the unilateral reactivation by Honduras of the legal action instituted by Nicaragua before the International Court of Justice, through a request for the setting of the date of the next hearing, is motivated by the search for a pretext to continue refusing the establishment of permanent mobile units in its territory to carry out the essential on-the-spot verification of the implementation of the security agreements, in accordance with the "Guatemala Procedure" and the declaration signed at Alajuela.

I should inform you that a copy of this note is being transmitted to the International Court of Justice.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister for Foreign Affairs.

[Spanish text not reproduced]

Managua,
March 28, 1988.

Dear President and Friend:

As you know, the Fifth Meeting of the Executive Commission of the Esquipulas II Accords, held last week in Guatemala could not conclude its business. The meeting was tabled with April 7th set as the date of resumption.

However, the dynamic of recent events — the dispatch of 3,200 US soldiers to Honduras and Nicaragua's request for temporary protective measures from the International Court of Justice — has a pace of its own which obliges us to make immediate decisions.

In the presence of the other Central American Ministers at the Guatemala meeting, Minister Carlos López Contreras made a commitment that all 3,200 US soldiers, sent to Honduras with the acknowledged intention to "strengthen or protect the Nicaraguan insurgents that are fighting against the Sandinista regime", would be completely withdrawn from Honduran territory on March 26 and 27.

Today, March 28, we have been able to verify that the commitment of Minister López Contreras has not been carried out, although, we have learned from public sources that under consideration is the partial withdrawal of said troops between today and tomorrow, the 29th. This would include the retention of remaining troops in Honduras indefinitely with some taking part in military manoeuvres that may have the same aim as that which determined their deployment.

On the other hand, esteemed President, the Agents for Nicaragua and Honduras were summoned by the President of the International Court of Justice to appear at a meeting that was scheduled to be held tomorrow, March 29. This meeting was postponed until Thursday the 31st, at the request of Honduras.

On Thursday the 31st, however, we should be prepared to clearly define before the President of the International Court of Justice our decision regarding the form of continuing legal proceedings or even the conditions under which we could proceed to conclude said proceedings.

Therefore, esteemed President, with the intention of continuing to contribute the utmost to the consolidation of peace, by means of strengthening the process initiated with Esquipulas II, I take the liberty of making the following proposal:

First. Nicaragua is ready to continue to be flexible and patient and in this spirit, to wait until Wednesday, March 30 at 24:00 hours for the 3,200 US soldiers sent to Honduras to totally abandon the territory of that country.

If at that time, the troops that minister López Contreras guaranteed would be out of Honduras on Sunday the 27th have made an effective and complete withdrawal, then Nicaragua, in the meeting with the agents of Honduras and Nicaragua before the President of the International Court of Justice set for Thursday, March 31, would consent to desist in its request for temporary protective measures presented to the International Court of Justice. But, at the same time, would proceed to insist that said Court set a date for the hearing on jurisdiction in the claim initiated by Nicaragua against Honduras.

Second. Nicaragua would be willing to alter its position with respect to the date on which the hearing on jurisdiction is held if, within a time period of

no longer than 45 days, a mechanism to guarantee security on the border between Honduras and Nicaragua is established *in situ* and for a minimum period of one year. This mechanism would be established by means of a bilateral accord between both States. For that purpose, a request would be made to the General Secretary of the United Nations to organize, if possible with the co-operation of the Organization of American States, permanent mobile units, such as those suggested by the UN-OAS technical commission that visited Central America in October 1987. These permanent mobile units would be established on the border between Honduras and Nicaragua, and according to the letter of the Esquipulas II Accords, its members would be selected from regional and extra-regional countries that have shown a desire to cooperate with peace efforts in Central America. These include countries such as Mexico, Colombia, Panama and Venezuela; Argentina, Brazil, Peru and Uruguay; Canada, Spain, Finland, Italy, Norway, the Federal Republic of Germany, and Sweden.

Third. If by May 15th, we find the mechanism to guarantee border security between Honduras and Nicaragua already established *in situ*, Nicaragua would consent to agree that the agents of both countries appear before the International Court of Justice to express their desire that the date on which the hearing on jurisdiction is to take place be indefinitely suspended.

Fourth. Once all the aforementioned is completed, if Honduras insists on the withdrawal of the claim, Nicaragua would also be willing to be flexible as long as Honduras agrees to sign a bilateral Treaty of Friendship and Co-operation with Nicaragua that obliges the two States to find recourse in the International Court of Justice in the case of any conflict or situation that puts peace between them in danger. This bilateral treaty must clearly and undoubtedly establish acceptance by Honduras and Nicaragua, and without any condition or time-limit, of the obligatory jurisdiction of the International Court of Justice, independently of whatever existing reservations and/or of the withdrawal or the modification of the acceptance of obligatory jurisdiction of the Court with respect to third States that may be presented following the signing of the treaty. Nicaragua would proceed to desist in the claim against Honduras immediately after the implementation of the Treaty of Friendship and Co-operation.

For your information, I am also enclosing the document that Nicaragua is delivering to Central American Governments and to the international community on the situation we face.

President and Friend, please accept my cordial greetings.

Daniel ORTEGA SAAVEDRA.

His Most Excellent Sir,
José Azcona Hoyo,
President of the Republic of Honduras,
Tegucigalpa.

[Spanish text not reproduced]

A/42/946

S/19698

25 March 1988

English

Original: Spanish.

*Letter Dated 25 March 1988 from the Chargé d'Affaires a.i. of the
Permanent Mission of Nicaragua to the United Nations Addressed to
the Secretary-General*

I have the honour to transmit to you below the note which His Excellency Mr. Miguel d'Escoto Brockmann, Minister for Foreign Affairs of Nicaragua, sent to His Excellency Mr. Carlos López Contreras, Minister for Foreign Affairs of Honduras, on 23 March 1988:

"I am writing in reference to your note of 23 March, in which you ascribe responsibility for violations of Honduran territory on 22 March in Pico Español sector, El Paraíso department, and Bocay sector, Olancho department, to troops of the Sandinist People's Army.

The Government of Nicaragua categorically rejects such accusations. As you are aware, and as official spokesmen of your country and of the United States Government have acknowledged, Nicaraguan government troops have successfully concluded operations to drive the mercenary forces out of Nicaraguan territory and back to their bases in Honduras, and are at this moment safeguarding the territorial integrity of Nicaragua.

It is a matter of concern to my Government that the false accusations levelled by the Government of Honduras coincide with the arrival in Nicaragua of the United Nations technical mission that has been dispatched to observe the situation in the border area. We nevertheless appreciate the communication received today by the Nicaraguan embassy in Tegucigalpa from civilian and military authorities, indicating that every effort will be made to help to guarantee the safety of the mission during its visit to the border sector of Bocay.

While reiterating our appeal to the Government of Honduras to grant access to the mission so that it can observe the situation on both sides of the frontier and ascertain the veracity of the accusations, we would point out that the outrage upon Honduran sovereignty has been committed by the United States Government by imposing the presence of mercenary forces on your country."

I should be grateful if you would arrange to have this note circulated as an official document of the forty-second session of the General Assembly under agenda item 34, and of the Security Council.

(Signed) Julio ICAZA GALLARD,
Ambassador,
Chargé d'affaires a.i.

[Spanish text not reproduced]

A/42/934
S/19660
21 March 1988
English
Original: Spanish.

*Letter Dated 21 March 1988 from the Chargé d'Affaires a.i. of the
Permanent Mission of Nicaragua to the United Nations Addressed to
the Secretary-General*

I have the honour to transmit to you below the note dated 19 March 1988 which His Excellency Mr. Miguel d'Escoto Brockmann, Minister for Foreign Affairs of Nicaragua, sent to His Excellency Mr. Carlos López Contreras, Minister for Foreign Affairs of Honduras:

"I am compelled to write to you once again with reference to the following attacks:

Between 0800 and 0830 hours today, 19 March, two F-5 aircraft coming from Honduran territory overflew the sectors of Mukuwas, San Andrés de Bocay, Waniwas y Wayawas, situated approximately 12 kilometres inside Nicaraguan territory, and proceeded to drop bombs and fire gun shots there.

Later, between 1435 and 1445 hours, two F-5 aircraft overflew the sectors of Amaka and Bocay, situated 8 kilometres inside Nicaraguan territory, and dropped four bombs on Sandinista People's Army positions there. The aircraft later returned to their sanctuary in Honduran territory.

The Government of Nicaragua protests vigorously and formally at this series of aggressions against Nicaraguan territory, to which must be added the reprehensible aerial bombings, attacks and incursions which I reported in the notes which I sent to you yesterday and this morning.

These incidents make quite clear what President Azcona meant when he said yesterday at a press conference that 'our most readily available resource is the Air Force and we shall use it again tomorrow if we continue to find that the Sandinistas have not left our territory'. What President Azcona was really doing was reporting, in advance, the bombing of Nicaraguan territory, for there has been no Sandinista 'invasion' of Honduran soil. As a result, for his words to be fulfilled, what he must have meant — and what in fact happened — was that the target was our national territory.

These latest attacks show that the Republic of Nicaragua was justified in applying, in the common interests of both peoples, to the International Court of Justice for interim protective measures in the case brought by Nicaragua. The Government of Honduras must realize that only respect for international law can provide an effective framework for relations among neighbouring countries."

I should be grateful if you would have this note distributed as an official document of the forty-second session of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Julio ICAZA GALLARD,
Ambassador,
Chargé d'Affaires a.i.

[Spanish text not reproduced]

A/42/937

S/19666

22 March 1988

English

Original: Spanish.

*Letter Dated 21 March 1988 from the Chargé d'Affaires a.i. of the
Permanent Mission of Nicaragua to the United Nations Addressed to
the Secretary-General*

I have the honour to send you a transcript of the note dated 19 March 1988 which His Excellency Mr. Miguel d'Escoto Brockmann, Minister for Foreign Affairs of Nicaragua, sent to His Excellency Mr. Carlos López Contreras, Minister for Foreign Affairs of Honduras.

"I am writing to inform you of the following incidents:

At 2100 hours on 18 March 1988, a group of approximately 30 mercenaries entered Nicaraguan territory from Honduran territory via the sector of Valle de Torres, 5 kilometres north-east of Somotillo, on co-ordinates 4508. The group clashed with a unit of the Sandinista People's Army: one member of our army, José Dimas Rodríguez Ríos, was killed and soldiers Anastasio Sánchez Zamora, Javier Velásquez Poveda, Leónidas Adán Rivera Ramos and Osmán Sánchez Corrales were wounded. Among the terrorist group, two mercenaries were killed and a large assortment of military supplies were captured. The rest of the group fled towards Honduran territory, taking the El Coyol road on co-ordinates 4708. This infiltration was openly supported by the Honduran army, which fired rifle shots at the Sandinista People's Army border post located at Palo Grande Viejo, half a kilometre west of Somotillo on co-ordinates 35-98-4.

I must also inform you that on 15 March of this year, aircraft coming from Honduras violated Nicaraguan airspace on three occasions, returning to Honduran territory after their incursions. Similar violations of Nicaragua's airspace — 4, 10 and 9 incursions respectively — occurred under similar circumstances on 16, 17 and 18 March, making a total of 26 violations of Nicaraguan sovereignty. I must emphasize that, on a number of occasions, these incursions were accompanied by attacks on our territory.

Faced with these repeated, unjustified and treacherous acts of aggression against the Republic of Nicaragua, I wish to lodge the strongest and most vigorous protest and to inform you that our representative to the International Court of Justice has been instructed to apply immediately to the Court for interim protective measures in the case concerning 'border and transborder military actions' brought by the Republic of Nicaragua.

This decision is further proof that the Government of Nicaragua, faithful to its commitment to always seek peaceful solutions to situations which threaten international peace is using the means of dispute settlement to which it is bound by the United Nations Charter and the Bogotá Charter. Such action is motivated by our profound concern to see the establishment of a just and lasting peace in the region, a peace which your Government unjustifiably and irresponsibly insists on jeopardizing."

I should be grateful if you would have this communication distributed as an official document of the forty-second session of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Julio ICAZA GALLARD,
Ambassador,
Chargé d'Affaires a.i.

[Spanish text not reproduced]

A/42/935
S/19661
21 March 1988
English
Original: Spanish.

Letter Dated 21 March 1988 from the Chargé d'affaires a.i. of the Permanent Mission of Nicaragua to the United Nations Addressed to the Secretary-General

I have the honor to transmit to you below the note which His Excellency Mr. Miguel d'Escoto Brockmann, Minister for Foreign Affairs of Nicaragua, sent to His Excellency Mr. Carlos López Contreras, Minister for Foreign Affairs of Honduras, on 18 March 1988:

“It is with profound concern that I am writing to inform you of the following incidents:

At 1200 hours on 17 March 1988, two jet planes entered Nicaraguan airspace from Honduras and fired 5 rockets in the sector of Amaka, on the border between the two countries, at precisely the moment when Lt. Col. Javier Carrión, Deputy Chief of Staff of the Sandinista People's Army, was holding a press conference for 31 national and foreign journalists. This treacherous attack, which was widely covered by the journalists present at the scene of the incident, was totally unprovoked.

At 1640 hours on the same day, a jet plane also coming from Honduran airspace fired two air-to-ground rockets at the sector of San Andrés de Bocay in Nicaraguan territory bordering Honduras. The plane later re-entered Honduran airspace.

The Government of Nicaragua protests formally and vigorously at these attacks on Nicaraguan territory, which show that the Government of Honduras is persisting in its refusal to conduct its relations with Nicaragua in accordance with international law and the treaties in force.

The incidents to which I have referred are not only extremely serious in themselves but are all the more dangerous in that they are taking place at a time when the United States Government, launching a massive campaign of false accusations against Nicaragua, has deployed 3,200 soldiers to southern Honduras in a move designed to set the stage for an interventionist adventure against Nicaragua.

The incidents to which I have referred, combined with the continued tolerance and support which the Government of Honduras has shown

for the military and paramilitary activities being conducted from Honduran territory by the mercenary groups in the service of the United States Government, are more than adequate and unequivocal proof that Honduras has not only failed to comply with the Esquipulas II agreements, by supporting irregular groups and not preventing the use of its territory as a base for aggression against Nicaragua, but also appears not to have any intention of complying with them in the future.

The Government of Nicaragua once again calls on the Government of Honduras to heed the legitimate interests of the Honduran people and allow access to the United Nations/OAS technical mission so that it can conduct an on-the-spot investigation and propose the necessary procedures for disarming and relocating the mercenary groups currently stationed on the border between Honduras and Nicaragua."

I should be grateful if you would have this note distributed as an official document of the forty-second session of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Julio ICAZA GALLARD,
Ambassador,
Chargé d'affaires a.i.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

Managua,
March 17, 1988.

I.A. No.

The Minister:

I am writing to Your Excellency to categorically and emphatically reject your protest of March 16, in note No. 025-DSM. The Minister attempts to base his protest on a non-existent "invasion" of Honduran territory by the Sandinista Army "in the area where the Bocay River flows into the Coco or Segovia River, south-east of Olancho Province".

The Nicaraguan Government firmly rejects the unfounded accusation that members of the Armed Forces of Nicaragua have *invaded* Honduras. If any invasion of Honduras has taken place, it is that of US troops and their mercenaries, as has been systematically denounced by diverse sectors of the Honduran population. And the only aggression that has occurred is the daily aggression waged from Honduran territory by the Reaganite forces. This is tolerated by the Honduran Government which has been incapable of denouncing the Reagan Administration's illegal use of its territory.

For more than seven years, the United States Government has maintained an illegal and immoral policy of war against Nicaragua, which has entailed

using neighboring countries as platforms for attack by mercenary groups at its service.

Throughout all these years, the Nicaraguan Government has tried to hamper, unsuccessfully, the involvement of brother countries in the criminal war against my country. To this end, Nicaragua has proposed many concrete peace initiatives, such as joint patrols on the borders and creation of mixed security commissions.

In spite of those efforts, the irregular groups created, armed, trained, and directed by the US Government have made Honduran territory their sanctuary. From there, they commit the terrorist acts I have referred to with impunity, often provoking border incidents as a result of that illegal presence.

Previous years have shown how the US Government has attempted, on innumerable occasions, to distort these incidents in order to escalate the aggression against Nicaragua and open the doors to an eventual interventionist adventure. The deployment of 3,200 US Army soldiers is reliable proof of the war objectives hidden behind the false accusations against my country.

The slanderous campaigns against my country, and events following border incidents in March and December of 1986, clearly illustrated the aggressive aims of the US Administration, alien to the real interests of our peoples.

It was precisely to prevent the Honduran Government from being dragged by this policy into a regional war of incalculable consequences, that the Nicaraguan Government, under the procedures for peaceful solution in the United Nations Charter, appealed to the International Court of Justice. Nicaragua sought to secure an end to the use of Honduran territory as a launching pad for brutal aggression against our nation.

The Nicaraguan Government has never harbored hostility towards the brother people and Government of Honduras. On the contrary, convinced of the historical links that unite both nations, Nicaragua has always tried to make peace and friendship the basis of relations with its neighbor, in the framework of international law.

When Nicaragua repels mercenary groups that daily commit the most atrocious crimes against its people under a policy of aggression and State terrorism, it is only exercising its legitimate and unquestionable right to defend its sovereignty, independence, and territorial integrity.

The Nicaraguan Government views with great concern the non-compliance of Honduras with the obligation under international law, and repeated by Central American Presidents in the Esquipulas II Accords, of impeding the use of their territory to attack other States. Efforts to get the Honduran Government to accept mechanisms for on-site inspection have also been unsuccessful. These would eventually help to re-establish peace and tranquillity in the border zones affected by the mercenary presence.

The Nicaraguan Government calls on the Government of Honduras to consider the situation, so as to not get dragged along by an illegal policy that has already been condemned by the International Court of Justice, and that will only bring more death and destruction to the Central American people.

In this spirit, Nicaragua invites the Honduran Government to receive the visit of the UN-OAS Technical Mission. This Mission has been established to carry out on-site verification in border zones, and formulate concrete proposals on procedures for disarmament and withdrawal of all mercenary forces from the common border area.

In closing, I assure Your Excellency of my utmost esteem and consideration.

Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

His Excellency
Carlos López Contreras,
Minister of Foreign Affairs,
Tegucigalpa.

[Spanish text not reproduced]

MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

Managua,
February 22, 1988.

The Minister:

I have the honor of writing to Your Excellency regarding the proposal you presented on behalf of the Government of Honduras during the XVII Regular Session of the General Assembly of the Organization of American States. This proposal was again presented by the Minister in the February 17, 1988, Executive Commission meeting in San Salvador.

Your Excellency proposed, among other things, the formation of an International Security Commission on the borders. This body would be charged with impeding irregular forces from using Honduran territory, as well as disarming and detaining those groups that would seek sanctuary in your country.

Your proposal also called for the creation of civilian organizations of an international character. These would assume the tasks of organizing reception and internment centers for irregular forces, as well as repatriation or transferral to third party countries (within a period of three months) of those members of said groups who disarm on Honduran soil, and other tasks.

Your Excellency will surely recall that the Nicaraguan Government has insisted on the absolute necessity of establishing effective mechanisms to guarantee border security between our two countries on many occasions since May 1981, when the Presidents of Honduras and Nicaragua met at the border post of El Guasaule. In fact, that 1981 Summit produced an agreement that the Ministers of Defense and Chiefs of Staff of our countries would meet and take concrete steps to guarantee border security by means of a joint patrol. Unfortunately, in spite of Nicaragua's insistence, it was impossible to keep that agreement. It was not even possible to secure Honduras's consent to meet at the level agreed upon to discuss how to carry out said joint patrol.

At the V Meeting of the Executive Commission, held in San Salvador on February 17, 1988, Nicaragua submitted concrete and detailed proposals for implementing the agreements of Esquipulas II in the areas of verification, control, follow-up, and especially "indispensable" on-site verification. The latter is a commitment which Honduras has, to date, refused to comply with. The proposal presented by Honduras to the General Assembly of the OAS, and again on February 17 in San Salvador, would appear to have been submitted as an alternative to on-site inspection, which is a commitment we made under the Guatemala Procedure.

Our understanding is that your Government's proposal reflects a firm political will to respect the basic principles of international law and to thereby adopt the necessary measures to prevent Honduran territory from being used as a base of aggression against Nicaragua. Therefore, I wish to repeat that my Government considers this a positive proposal, as I expressed in my note dated November 16, 1987.

However, the real value of your proposal, Minister, depends on the willingness of the Honduran Government to implement it as quickly as possible.

Nicaragua invites the Honduran Government to immediately establish direct talks between our countries to agree on and implement your country's proposal, with the urgency that the situation warrants. I propose that the first meeting of commissions from both countries take place on Monday, February 29, in Managua, or if you prefer, in Tegucigalpa. These commissions should be led by the respective Chiefs of Staff of the Honduran and Nicaraguan Armies.

In closing, I assure Your Excellency of my highest esteem and consideration.

(Signed) Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

To His Excellency
Carlos López Contreras,
Minister of Foreign Affairs,
Honduras.

[Spanish text not reproduced]

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MINISTRY OF FOREIGN AFFAIRS
MANAGUA, NICARAGUA

Managua,
February 4, 1988.

The Minister:

I have the honor of writing to Your Excellency to convey the contents of the note I sent today to His Excellency, Ricardo Acevedo Peralta, Minister of Foreign Affairs of El Salvador. The text of the note follows.

“Managua,
February 4, 1988.

To His Excellency
Ricardo Acevedo Peralta,
Minister of Foreign Affairs of El Salvador.

I have the honor of writing to Your Excellency to confirm my acceptance of the invitation made today, by telephone, to attend an Executive Commission meeting on February 17 and 18 of 1988 in San Salvador. This meeting will allow us to carry out the mandate entrusted to us by the Central American Presidents in the Costa Rica Summit meeting. As Foreign Ministers of our respective countries, we can take advantage of this meeting to discuss the positions our Governments will present at the IV Meeting of Ministers of Foreign Affairs from the European Community, Contadora Group, and Central America.

The Nicaraguan Government noted that the Honduran Foreign Ministry, in telex No. 244, dated today, has already consented to be in San Salvador on the proposed dates for the purposes outlined. We have also noted that the Minister of Guatemala, His Excellency Alfonso Cabrera Hidalgo, is in agreement with the procedure outlined, as stated to me in a telephone conversation today.

In closing, I assure Your Excellency of my utmost esteem and consideration.

Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs."

In closing, I take this opportunity to assure your Excellency of my utmost esteem and consideration.

Miguel D'ESCOTO BROCKMANN,
Minister of Foreign Affairs.

[Spanish text not reproduced]

B. Press Accounts

La Tribuna, 28 May 1988, p. 6.

4 Planes Loaded with Aid for Nicaraguans

(Caption: "Civilian personnel await authorization to unload the Hercules C-130 of the United States Air Force, in order to dispatch the 'humanitarian' aid for the *contras*."¹)

It was officially reported that a new shipment of humanitarian aid sent yesterday by the United States to the *contras* and displaced Nicaraguans arrived in four C-130 military planes. They unloaded their supplies at Toncontin Airport in Tegucigalpa.

The press attaché of the United States Embassy, Charles Barkley, reported that the aircraft of the Military Air Transport Command (MAC) were carrying medicine, clothing and shoes from Charleston, South Carolina.

He said that the aid will be delivered "by land to the families and the Nicaraguans in the border zones".

The distribution of the assistance is being supervised by a staff appointed by the Catholic Church of Honduras, the team of the Agency for International Development (AID) located in Honduras, and the United States accounting firm Price Waterhouse.

Barkley said that "this is another installment of the humanitarian aid that began to flow two months ago", and will possibly continue to be sent until September, at an overall cost of the \$18 million passed by the US Congress.

Other planes will be landing in Tegucigalpa over the weekend carrying more aid for the Nicaraguans, according to the spokesman.

When the cease-fire went into effect on April 1, thousands of *contras* gathered in Honduras, primarily in the areas of Yamales and Capire, in the eastern province of El Paraiso, said inhabitants of the zone.

[Spanish text not reproduced]

¹ Photograph not reproduced.

La Tribuna, 23 May 1988, p. 6.

ALTHOUGH THEY'RE JUST BEANS:
CONTRAS CELEBRATE ARRIVAL OF FOOD

By Humberto Arce, AFP Special Correspondent

Capire, Honduras, May. (AFP). Camouflaged by their olive green uniforms, some unarmed and others with guns over their shoulders, the Nicaraguan *contras* go down the steep streets of *Capire* and *Yamales* in eastern Honduras with a festive air. They are receiving food, medicine, combat boots, and their wages sent from the United States.

After several days of great anxiety due to the feuds that have broken out among their guerrilla commanders, the *contras* in this remote region of Honduras in the eastern province *El Paraíso* are happy because the American aid has been abundantly flowing since Thursday.

An average of 4 or 5 transport vehicles arrive daily in *Capire* from *Tegucigalpa* and other Honduran cities, with hundreds of tons of supplies for the *contras*.

Recently baptized "Little Managua" by the *contras*, *Capire* is a small village some 200 km from *Tegucigalpa*, and only 10 km from the border with Nicaragua, where for the last four months the Strategic Operations Command Post (COE) or Staff Headquarters of the *contras* has been operating again.

The COE is really a small complex of warehouses and ramshackle huts at the foot of a rock mountain at the entrance to *Capire*. Thousands of guerrillas file by daily, desperate for a new pair of boots, a package of lard, salt or medicine.

Most of the guerrilla camps are dispersed in the area of *Yamales*, some 15 kilometers before *Capire*. Because it harbors the COE, the latter town serves as the *contra* "capital", which is why it is called "Little Managua".

Capire and *Yamales*, now almost depopulated, are small villages hidden between the hills and deforested peaks that extend all the way to the border with Nicaragua. There the farm camps have shrunk to make room for the *contra* camps.

Most of the 6,000 *contra* fighters who moved into this region, had to walk for two or three weeks to reach *Yamales*. Ironically, they went through more difficult times in these weeks than in their confrontations in Nicaragua, according to their own testimonies.

The trucks transporting the American aid for the rebels park at the COE. There, hundreds of enthusiastic combatants rapidly unload the supplies and re-load them onto pick-ups and off-the-road vehicles which will take them to the camps.

Last Thursday when the two-week distribution first began, there was an incredible volume of vehicles travelling to and from the COE because of the anguish in most of the camps over the food shortage.

Cars overflowing with sacks of beans and canned goods went in and out of the COE at racecar speed to learn of the distribution network from one camp to another.

The commanders of each guerrilla camp participated actively in transporting supplies, sometimes in the driver's seat. They even carefully supervised to ensure that distribution was according to the food needs of their troops.

The food, this time basically beans, was left on either side of the road between *Capire* and *Yamales*. From there the troops later carried them on

their backs to the final destination, the camps — usually one or two kilometers off the road.

For example, the 325 guerrillas camped at the Tactical Operations Command Base (COT) in San José de Yamales had a monumental task on Thursday. They carried 100- and 200-lb sacks of beans on their backs for two kilometers over rugged mountain terrain.

The sight of young guerrillas toting loads almost equal to their own weight was to be seen at all entrances to the commando camps of “Rafaela Herrera”, “Jorge Salazar”, “Juan Castro”, “Quilali”, etc.

[Spanish text not reproduced]

The New York Times, 19 May 1988.

Contras Taking Refuge in Honduras

By Stephen Kinzer, Special to *The New York Times*

Yamales, Honduras, May 17. In the three months since Congress cut off military aid to the Nicaraguan guerrillas, thousands of rebels have flooded into Honduras and created a mini-state in the mountainous border area.

Honduran officials have repeatedly denied that they cooperate with the *contras*, but a trip through the area showed that in fact the Honduran military works closely with them. One of the *contra* camps, in the village of Capire, is 500 yards from a Honduran military post.

The *contras* maintained camps here in past years, but many of them abandoned Honduras in the mid-1980s, moving into Nicaragua to fight the Sandinistas. With military aid now cut off, the majority of the *contra* force, about 5,000 men, has moved into a section of Honduras that the Honduran authorities have turned over to them.

Honduran soldiers maintain guard posts along the road into the *contra* zone, and outsiders are not permitted to pass. But today, two correspondents who were able to enter the area found that the *contras* have effectively assumed control of an area covering about 120 square miles. Their presence contradicts assertions made Friday by Foreign Minister Carlos López Contreras, who rejected Nicaraguan charges that *contras* are based inside Honduras.

“They’re in Charge Here”

“The Government of Honduras is not permitting the *contras* to use its territory as a base for aggression against Nicaragua, and certainly not with the direct or indirect support of the Honduran armed forces”, Mr. López wrote in a reply to the Nicaraguan charges.

The *contra* zone is reached by a rugged dirt road that begins outside the town of Las Trojes and winds through hillside pastures and coffee fields.

“This is *contra* country”, said a Honduran farmer who lives here. “They’re in charge here.”

There was no sign of tension or conflict in the area today, despite the feud that has broken out among *contra* military commanders. Even *contras* loyal to dissident commanders said they were prepared to accept the discharge of their commanders if that proved necessary to maintain the strength of their fighting force.

Dissidents Are Deported

Last month, several prominent field commanders urged the removal of Enrique Bermúdez, who has been their chief military strategist since the Nicaraguan conflict began more than six years ago. But with decisive help from the Honduran Army, Mr. Bermúdez appears to have withstood the incipient rebellion and retained his post.

On May 6, the Honduran authorities detained and deported seven leading *contras* who had denounced Mr. Bermúdez. "The Honduran Army played a decisive role in resolving this problem", said a *contra* soldier who was sipping a soft drink at a roadside stand here today.

Diplomats said Honduras acted against the dissidents at the behest of the Central Intelligence Agency, which backs Mr. Bermúdez and maintains close ties to the Honduran Army.

The official Honduran position is that Honduras has not taken sides in the *contras*' internal dispute. But a Honduran official with close ties to senior military officers said that neutrality is more formal than real.

Foreign diplomats agreed. "The Honduran military has virtually become a bodyguard for Bermúdez", one ambassador said.

Congress has approved funds to buy food, clothing and medicine for the *contras*, but the supplies are arriving slowly. American officials in Honduras have taken pains to assure that supply convoys carry no military equipment, and their monitoring has led to complaints by the *contras*.

"The American auditors are counting every banana and every tomato, and half the food spoils before it gets out to fighters", said Bosco Matamoros, a *contra* spokesman. "This problem of supplies is hurting us much more than our internal disputes."

Supply Problems Are Cited

One prominent *contra* commander, who uses the nom de guerre Halcón, meaning Falcon, said today that he crossed into Honduras with 115 men on Saturday. Like many other *contras* in the area, he said he was ready to return to Nicaragua to fight if the current cease-fire does not lead to a final peace accord.

"We have had supply problems, and we are here to see what can be done to resolve them", Halcón said in an interview. "The differences among our leaders are being worked out by the leaders. All of us are prepared to fight to the end if there is no negotiated settlement."

One of Halcón's comrades, who gave his name as René, said Honduran soldiers in this area have no conflicts with Honduran troops.

"We get along fine with them", he said. "They treat us with respect."

Many Honduran families living in this area have left, and their homes have been occupied by *contras*. *Contras* are the principal customers at general stores and other small businesses operated by the Hondurans who remain.

One Honduran family has posted a sign on the wall of the house that, translated, reads, "We Repair Firearms and Radios."

Half a mile from the road, *contras* who belong to the Tactical Operations Command maintain a base that is home to at least 100 men. They said their unit has been trained to parachute into Nicaragua to commit acts of sabotage and conduct other special operations.

Contras spoke freely about their backgrounds and their skepticism over current peace efforts.

"I don't agree with the expulsion of Toño", said a *contra* who fought under

one of the dissident commanders, Walter Calderón López, who uses the name Toño. "I hope he is allowed to come back. But if he doesn't, we'll go on anyway. It will be as if he was killed in combat."

In a telephone interview from Miami, Aldo Calero, a member of the *contra* directorate, said Toño would probably not return to the ranks of the *contras*. But he said negotiations were under way with other dissident commanders in the hope that they will resume their posts under Mr. Bermúdez's leadership.

"I've been listening to their complaints because I think they deserve to be heard", Mr. Calero said. "The accusations are not against Bermúdez so much as they are against the way certain things have been done."

Toño and other dissident commanders have described Mr. Bermúdez as dictatorial and corrupt, and asserted that he is not committed to democracy in Nicaragua.

A Young Contra's Decision

Contras who have assumed control of this part of Honduras include men and women, veterans and new recruits. Some are almost elderly and others have not yet reached their teens.

"I joined up nine months ago, because I was getting to the age when the Sandinistas were going to draft me", said a 15-year-old *contra* who called himself Siete Mares, or Seven Seas. He said he was from the Nicaraguan city of Matagalpa. "I was going to have to fight for one side or the other, and since I don't like the Sandinista system and all the controls, I decided to become a *contra*."

Honduran soldiers based nearby said they have an informal agreement with the *contras*.

"Their zone, more or less, is from Capire to Yamales, and we don't go in there much", one soldier said. "As long as they keep to themselves, there's no problem."

Tiempo, 28 April 1988, p. 39.

Boots and Military Uniforms among the "Humanitarian Aid" Arriving for the Contras

Tegucigalpa. The first shipment of "humanitarian aid" for the *contras* taking refuge in Honduras arrived in the capital yesterday in a heavy Hercules C-130 plane. It was affirmed that among the supplies were military boots and uniforms.

Foreign Ministry spokesman Eugenio Castro said that the shipment contains 38,000 pounds of clothing, shoes, and cooking utensils. He did not refer to the boots and uniforms that some journalists reported on.

Immediately after the plane parked around 9:00, the cargo began to be unloaded and transferred to a warehouse near the "Las Torres" neighborhood of Comayaguela. From there it will be sent to the border zone.

A spokesman of the United States Embassy said that the plane came from Pope Air Base in North Carolina, and is the first flight with assistance for the rebels. Last week supplies were delivered, but they had been purchased in Honduras.

Officials from the Agency for International Development (AID) and the US Embassy were at Toncontin yesterday during the unloading.

The shipments are from the \$48 million that Congress recently approved to aid the rebels within the framework of the peace efforts they are involved in with the Sandinistas.

The Honduran Government's authorization for the delivery of the aid here is considered to be tacit recognition of the presence of anti-Sandinista rebels in Honduran territory.

Nicaraguan Ambassador Danilo Abud Vivas said on the radio yesterday that President Daniel Ortega had spoken with his Honduran colleague, José Azcona, on Friday to tell him that Honduras's decision constituted a violation of the Esquipulas and Sapoá peace accords.

Danilo Abud asserted that this aid seeks to militarily strengthen the *contra* faction that follows the Reagan Administration's orders and opposes the peace efforts.

"This humanitarian aid is turning into logistical support because it is going to armed men", said the chief of Managua's diplomatic mission in Tegucigalpa.

On the other hand, he stated that the Government of Honduras has also denied that there are rebel camps in its territory, but with this act, "it is openly acknowledging the fact".

He emphasized that the aid that arrived in Tegucigalpa yesterday obstructs the Sapoá Accords, by strengthening the faction headed by Colonel Enrique Bermúdez which wants to continue the military hostility.

(Caption: The first load of "humanitarian" aid for the *contras* who have taken refuge in Honduras arrived yesterday in the capital aboard a heavy Hercules C-130 plane. It was reported that among the supplies are military boots and uniforms. The cargo was transferred to a warehouse (in the photograph¹ near Toncontin Airport.)

[Spanish text not reproduced]

El Heraldo, 28 April 1988, p. 1.

Aid to the "Contras"

This is the Hercules C-130 plane² that flew into Toncontin Airport yesterday from North Carolina (USA), full of "humanitarian aid" for the Nicaraguan *contras*. The assistance is to be delivered in the course of this week under the supervision of AID, the US Embassy in Tegucigalpa, and the Honduran Catholic Church. OAS Secretary General João Baena Soares protested the delivery of the aid yesterday, accusing the United States of obstructing the peace efforts of the Central American Presidents.

[Spanish text not reproduced]

¹ Not reproduced.

² Photograph not reproduced.

La Prensa, 28 April 1988, p. 5.

Humanitarian Aid Arrives for Nicaraguans

(Caption: A load of humanitarian aid for the Nicaraguans arrived yesterday aboard a C-130 airplane. (Martinez.))¹

Tegucigalpa. (By Felipe Casaca Ventura.) A US Air Force plane flew into Toncontin International Airport yesterday from the Pope military base in North Carolina, USA. It brought 38,000 pounds of humanitarian aid supplies for the Nicaraguan counterrevolutionaries.

Eugenio Castro Claramount, spokesman of the Honduran Foreign Ministry, reports that the aircraft arrived at 8:30 a.m. transporting clothing, shoes, cooking utensils and other items.

The foreign policy spokesman affirmed that this merchandise was for the Nicaraguans on the border, and who are not included in the aid package of the United Nations High Commissioner on Refugees (UNHCR), but he refused to say it was for the "*contras*".

He said that this aid comes under number 5 of the agreement signed at Guatemala last August, which states that the Central American countries would ask countries within and outside of the region to not aid armed groups. He pointed out that this clause does preclude aid for the repatriation or relocation necessary to reintegrate former members of said groups or forces into normal life.

Castro Claramount also explained that possibly that aid is in response to the temporary cessation of the armed struggle between the "*contras*" and the Sandinistas, agreed upon in Sapoá.

According to unofficial reports, the plane belongs to the US Air Force, is a C-130, and carries no war matériel in its cargo.

[Spanish text not reproduced]

El Herald, 28 April 1988, p. 2.

Plane with Aid for "Contras" Arrives at Toncontin

Tegucigalpa (ACAN-EFE). A Hercules "C-130" plane from North Carolina, United States, arrived in Tegucigalpa yesterday with "humanitarian aid" for the Nicaraguan "*contras*" located in eastern Honduras.

A spokesperson of the Honduran Foreign Ministry informed ACAN-EFE that the aircraft, with some 19,000 kilos of cargo including food, clothing, shoes, and cooking utensils, landed in the civilian section of Toncontin Airport, at the southern end of this capital.

The aid to the anti-Sandinistas will be distributed by the Agency for International Development (AID), the Catholic Church, and the United States Embassy.

The Church announced this week that it would help deliver the aid to the "*contras*" for humanitarian reasons.

On April 20, the Government of Honduras agreed to allow the aid to be

¹ Photograph not reproduced.

delivered to the Nicaraguan rebels in the territory of this Central American country, under the supervision of AID, the Church and the US Embassy accredited in this capital.

In February, the United States passed \$48 million in aid to the "contras" that have operated in Honduras since 1981.

After the announcement that the aid to the insurgents would be delivered through Honduras, the Government of Nicaragua made a formal protest to the United States and Honduras. It says that this violates the Accords signed at Sapoa between Managua and the Nicaraguan Resistance.

[Spanish text not reproduced]

La Tribuna, 25 April 1988, p. 6.

Montoya Urges for Protests over the Contras and US Arrogance

** Some police leaders are incapable of bowing their heads and saying yes to the American police.

** Judicial Branch should punish Matta's kidnapers.

The President of the National Congress, Carlos Montoya, called for protests over the presence of the *contras* in Honduras and "over the arrogance of the Americans in Honduras". He noted that "some leaders of our police force are incapable of bowing their heads and saying yes to the United States' police".

He also said that the Judicial Branch should take action, at the Government's initiative or at the request of one of the parties, against those who participated in and sponsored the abduction of alleged drug trafficker Ramon Matta, "because it is a crime that violates all the laws of Honduras, including the Constitution".

The presidential hopeful said the above in a speech before some 900 leaders of his movement who were participating in a political meeting in San Pedro Sula on Saturday night.

Montoya maintained that those responsible for the "abduction and handing over of Matta should be put on trial, because they only presented us with a *fait accompli*. When the Honduran people learned about it, he was already on a plane in the Dominican Republic, after having been captured by agents of the DEA of that country".

He asked "Who responds to *fait accomplis*?" and immediately answered, "The law has to punish whoever violates it. That is why from the beginning I said it was a violation of the Constitution and an abduction, and the Judicial Branch has to take action."

But instead of telling the gathering about the demands . . . [2 lines of illegible text] said Montoya, who thought that "a strange mixture of conservatives and leftists started the protest march".

Montoya asked, "Why were there no demonstrations when over 150 leaders disappeared in Honduras, whose only crime was to think differently? Everyone remained silent", he said. "Now, taking advantage of the commission of one crime — the kidnapping of Matta — they sling mud at President Azcona's administration, make the Liberal Party seem weak as if it cannot govern, and put together a chain of communications depicting this act as a tremendous violation of the Constitution."

"And many of us view it as much more than a crime," he added, "so we get

caught up in a dangerous game. Who funds those demonstrations? What is their purpose? How is it that the conservative college students are anxious to ally themselves with the ultra-left and set flame to the United States Consulate with molotov cocktails, as Enrique Ortez said?" he asked without pause.

He then added, "There is a rise in drug trafficking, and Honduras is a transit point for narcotics. There is a lot of money involved and there is also the arrogance of the US authorities who offend the dignity of our people. There is also the inability of some leaders of our police force to bow their heads and say yes to the arrogant US police."

There was a whole string of "errors, acts and violations which should be examined clinically, without the passion of an imprudent act of rejection or rebellion", he noted.

Montoya then immediately said, "We don't like to see our dignity trampled on, we don't like the arrogance of the Americans in Honduras, we don't like them sticking our country with the *contras*. We should protest all of this, but we also should preserve President Azcona's Constitutional government." To this he received the applause of his followers.

"But also," he added, "we must clean up Honduran society from the danger of drug trafficking. It is a multi-million dollar business, and it could touch all of our country's structures, it could prostitute our society. It can buy off governments, buy off military officers, buy off leaders, and use them as springboards."

He said that such is the current situation in Panama, where "nothing is respected. President Del Valle was thrown out like any civil servant, while General Noriega takes in millions from drug trafficking."

"We Liberals," he emphasized, "do not want a country tied to crime, or to drug trafficking, or to war, or to the *contras*, or to dependence. We want a democratic country with dignity, with freedom and with respect for the law. But the people have to achieve this little by little."

[Spanish text not reproduced]

The Miami Herald, Friday 22 April 1988.

Honduras: Contra Aid Relayed

Tegucigalpa. Honduras says it is allowing US nonlethal aid to reach Nicaraguan rebels on its soil, even though Nicaragua says the aid violates a regional peace plan.

US Embassy officials said the first consignment of the aid, part of a \$47.9 million nonlethal package approved by Congress last month, was dropped by air to the rebels in a remote part of eastern Honduras on Tuesday.

The Foreign Ministry said Wednesday that "the government of Honduras has authorized the handing over of the . . . humanitarian aid to the Nicaraguan population that is in Honduran territory, bordering on Nicaragua."

It was a rare admission of the presence of Nicaraguan rebels in Honduras. The Government had previously said it did not want the *contras* in the country but could not keep them out.

La Prensa, 20 April 1988, p. 2.

Honduras Authorizes Delivery of Humanitarian Aid to "Contras"

Tegucigalpa. Upon knowing of the agreement between the Nicaraguan Resistance and the Sandinista Front, the Honduran Government authorized delivery of part of the humanitarian aid package to the Nicaraguan population located in national territory.

Following is the brief communiqué released last night by the Minister of Foreign Affairs, establishing that whereas:

The Government of Nicaragua and the Nicaraguan Resistance agreed upon a provisional cease-fire as a result of talks held in Sapoá, the Republic of Nicaragua;

The approval of funds by the United States Congress for humanitarian aid expresses a bipartisan policy regarding the aforementioned cease-fire, and has the support of all interested sectors;

The providing of said aid is expressly in line with the commitment under clause 5 of the "Procedure for the Establishment of a Firm and Lasting Peace in Central America", signed by the Presidents of the Central American countries on August 7, 1988; and

The recipients of this assistance are not included in the international aid offered through the office of the United Nations High Commissioner for Refugees.

Therefore:

The Government of Honduras has authorized the delivery of said humanitarian aid to the Nicaraguan population in Honduran territory along the border with Nicaragua. The following entities are in charge of coordinating distribution: AID; Price Waterhouse, the Catholic Church of Honduras, and the Embassy of the United States of America.

[Spanish text not reproduced]

Tiempo, 28 March 1988, p. 9.

[Paid Space]

Open Letter

Tegucigalpa, D.C., March 24, 1988.

Mr. President of the National Congress of Honduras,
Lic. Carlos Orbin Montoya,
Tegucigalpa.

Honorable Sir:

Our organizations are made up of Hondurans who are *indignant* upon daily seeing sectors of the government sell out our country's sovereignty and dignity.

It is we, Hondurans, who pay our *taxes* on time so that they can be used on development and social welfare. We do not pay to see our money converted

into war instruments such as F-5's, and much less military manoeuvres which taint our native land every 24 hours.

Mr. Montoya, we believe that when the Honduran people elected the current President, they did so thinking there was going to be a change in Honduras's foreign policy. However, two years have been sufficient to demonstrate that things remain the same: the subservience has not been curbed at all and Honduras continues to be latched onto the hawk cowboy who runs the White House.

Last year we were given hope upon seeing President Azcona add his signature to the peace accord known as Esquipulas II. We thought it marked an honorable rectification of Honduras's foreign policy. But we were completely wrong. Government policy not only continued to be essentially the same, it became even more hard-line and upped its dosage of cynicism.

We have heard Mr. Azcona's speeches, particularly those referring to the Central American political situation. And we have heard the long, boring speeches of the Foreign Minister of Honduras, Attorney Carlos López Contreras, sometimes denying the presence of the anti-Sandinista counterrevolutionaries, and at others (as on international television), admitting that Honduras served as their "sanctuary". We see that the lessons of clever Goebbels have been learned well. This, Mr. President of the National Congress of Honduras, infuriates us to the core!

But the straw that broke the camel's back, Mr. Montoya, is the events of the past few days. 3,200 more US soldiers landed in our country, allegedly to defend us from Nicaraguan "aggression". For allowing this to take place, the Azcona Administration can take pride in making the greatest sell-out yet of our national sovereignty.

The most ironic aspect is that the news of the alleged incursion of the Sandinista People's Army into Honduran territory came out in the United States before Honduras itself. Don't you think there's something a bit absurd and unbelievable about all this? Is there not desperation in the White House and the Pentagon because their *contras*, their precious "freedom fighters", apostles of Bolivar, are losing the war? Or is it that they underestimate the people so much that they think we are unable to reason logically?

The Constitution of the Republic grants the Armed Forces the duty, among others, of safeguarding the territorial integrity of the nation.

If this territorial integrity is in danger and 3,200 US soldiers are called in to defend it, this means that the Armed Forces are incapable of doing their job.

On the other hand, the Constitution — as you should know, Mr. Montoya, being an attorney — clearly states that the National Congress is the State agency that must authorize the presence of foreign troops on Honduran soil. Why was it not Congress who made the decision in this matter? Mr. Montoya, does it not seem that the branch of government over which you preside was also disrespected by Azcona?

In a previous March, this one of 1924, 200 marines moved into the heart of Tegucigalpa under the pretext of defending American interests, which were allegedly endangered by the bloody civil war of that year. The day after the unruly soldiers arrived, the great Honduran patriot Froylan Turcios published the *Bulletin of National Defense* asking that they be expelled. That was accomplished in April of that same year.

Now, in the fiery month of March 1988, we invoke the spirit of Froylan Turcios and his brave colleagues, Alfonso Guillen Zalaya, Federico Peck Fernandez, Saul Jimenez, Vicente Mejia Colindres and other honorable spokespersons of the generation of 1924 who got Honduras's sovereignty respected by means of civic consciousness.

Based on the above, we demand the following:

1. That the National Congress use its constitutional powers and order the immediate departure of the foreign troops — both the Americans and the Somocista counterrevolutionaries.
2. That the Government of Honduras behave in keeping with international law, and in strict compliance with the Esquipulas II Accord.
3. We do not agree with war, because it is a threat to man's most sacred gift: *life*. We demand jobs, freedom and social justice to live as a dignified and respected people.

We hope this patriotic call will yield the desired result: a Honduras free of foreign troop presence, as our forefathers dreamed and as we, good descendants, also hope.

Accept assurances of our most distinguished consideration.

Organization:	United Federation of Workers of Honduras (FUTH)
Stamp and signature:	(signature)
Organisation:	National Federation of Farmworkers (CNTC)
Stamp and signature:	
Organization:	Co-ordinating Committee of People's Organizations (CCOP)
Stamp and signature:	(signature) (seal)
Organization:	Committee for the Defense of Human Rights in Honduras (CODEH)
Stamp and signature:	(signature) (seal)
Organization:	Professional Association of Honduras Teachers (COLPROSUMAH)
Stamp and signature:	(seal) (signature)
Organization:	Professional Association of Teachers in Middle Education of Honduras (COPEMH)
Stamp and signature:	(signature) (seal)
Organization:	National School of the Arts (ENBA)
Stamp and signature:	(signature) (seal)
Organization:	Council for the Integral Development of Women in the Countryside (CODIMCA)
Stamp and signature:	(signature) (seal)
Organization:	Peasant Organization of Honduras (OCH)
Stamp and signature:	(signature) (seal)
Organization:	Committee of Families of the Detained and Disappeared in Honduras (COFADEH)
Stamp and signature:	(signature) (seal)

[Spanish text not reproduced]

The Christian Science Monitor, 8 December 1987, p. 9.

Peace Plan in Trouble: Honduras Poses Obstacle to Verifying Central America's Peace Plan

By Peter Ford, Special to the *Christian Science Monitor*

The Central America peace plan is running into serious trouble in Honduras — the country that is the Reagan administration's closest ally in the region and the one where the *contra* rebels are based.

The Honduran Government is refusing to allow inspectors to check that it is keeping its promises under the pact, according to a report by a group involved in checking such compliance.

This stance, the confidential document concludes, makes verification of security aspects of the Aug. 7 peace agreement impossible.

The report was prepared by a technical group of the International Verification and Follow-up Commission (known by its Spanish acronym CIVS), formed to ensure that five Central American nations comply with their obligations under the pact.

That plan requires Honduras to cease offering sanctuary to Nicaraguan *contra* rebels, who are known to have established base camps, communication networks, and logistical centers in Honduras.

But the CIVS mission reported that Tegucigalpa would not allow *in situ* inspection of its territory until the five Central American Governments have concluded an agreement on mutual arms limitation. "This is potentially an extremely bad sign", said one official closely involved in the verification process. An arms agreement is foreseen under the peace pact, but no time frame has been set. "It could go on *ad infinitum*", the official said. "And Honduras is in a position to stall the arms talks."

At a meeting last Friday in New York, the CIVS — comprised of foreign ministers from five Central American nations, eight Latin American countries, and the Secretary-Generals of the United Nations and the Organization of American States — agreed to send a mission to the region in early January to check compliance with political obligations under the peace pact. But they took no action on the technical mission's report that "it is clear that the conditions to suggest concrete steps toward *in situ* inspection do not exist".

The 30-man team "will ask governments pertinent political questions about security issues, but they won't be observing compliance as such", the official said.

The Central American Presidents set up the CIVS to verify their steps toward the peace plan's five key goals: democratization, amnesty for political prisoners, cease-fires, an end to outside aid for rebels, and halting the rebels' use of regional territory.

The commission was to have begun its inspection a month ago and be ready to report to a presidential summit scheduled for Jan. 15, 1988. But so far it has only sent its technical team on two trips to the region, which led to a "basically negative outcome", the team report said.

Nicaragua, El Salvador, and Costa Rica are all in favor of establishing mobile inspection teams in the region by the end of the year, the report said, while Guatemala warned that its congress must approve any inspection team visits.

But the Honduran Government is tying territorial inspections to full democratization in Nicaragua, the report states. Tegucigalpa also sees regional

arms limitation as part of the peace plan's "harmonious whole", and is insisting that there be no verification without simultaneous compliance with all the plan's provisions.

Even then, the report says, Honduras is offering the CIVS access only "so long as this does not compromise the regular activities of the armed forces or requirements imposed by security motives".

Many of the *contras*' communications and supply bases are known to have been established in Honduran Army camps, such as the Palmerola and Aguacate Air Force bases, and in military installations on the Swan Islands.

Honduras's insistence on simultaneity has frustrated officials seeking to verify the treaty. The country's refusal to allow *in situ* inspection until other aspects of the plan are in place means "the notion of simultaneity, a fundamental ingredient of the accord, could nonetheless become its Achilles heel", the CIVS report warns.

Resolving that problem is crucial. If it is not solved, the CIVS team warns, "compliance with the accord as a whole will probably be bogged down".

86. THE REGISTRAR TO THE AGENT OF HONDURAS

13 June 1988.

I have the honour to transmit to Your Excellency herewith a copy of two letters¹ of today's date from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, together with one set of copies of the documents enclosed with each such letter. As the President announced at the opening of this afternoon's hearing, the Government of Honduras is invited to comment, if it so desires, upon these documents in accordance with Article 56, paragraph 3, of the Rules of Court.

87. THE AGENT OF HONDURAS TO THE REGISTRAR

14 June 1988.

I have the honour to refer to the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras) (Jurisdiction and Admissibility)*, to submit to the Court, copies of documents already published, but of which reference was made by myself as Agent, and Professor Derek W. Bowett, as counsel of Honduras in their pleadings of 13 June 1988.

M. Carías (Public sitting, 13 June 1988)

1. Letter from Minister Carlos López Contreras to the Ministers of Foreign Relations of the nine member countries of the Contadora and Support Group. 24 June 1987: copy attached, Press Communiqué. (See p. 143, *supra*.)

¹ See Nos. 84 and 85, *supra*.

2. Letter from President Ortega to President Azcona. 22 December 1986: United Nations document. (See p. 144, *supra*.)
3. Letter from President Azcona to President Ortega. 24 December 1986: OAS cp/Inf. 2491/87. (*Ibid.*)
4. Statement by Minister Carlos López Contreras at the United Nations General Assembly. 7 October 1987: A/42/P.V.24. (*Ibid.*)
5. Sapoa Agreement between the Government of Nicaragua and the Nicaraguan Resistance. 23 March 1988: press clip and translation. (See p. 145, *supra*.)
6. Press Communiqué of 19 April 1988 on transit of humanitarian aid through Honduras. (See p. 146, *supra*.)
7. Speech by the Secretary of Foreign Affairs of Honduras to the Seventeenth General Assembly of the OAS. 12 November 1987: booklet, pp. 34-35. (*Ibid.*)
8. Press Communiqué by representatives of Canada, Federal Republic of Germany, and Spain, on verification in Central America. 25 May 1988. (See p. 147, *supra*.)
9. Fifth Meeting of the Executive Commission of Ministers of Foreign Relations of Central America. Guatemala, 1 April 1988. (*Ibid.*)

Professor Bowett (Public sitting, 13 June 1988)

Journal of the United Nations.

Friday, 20 June 1986. (See p. 153, *supra*.)

1. Letter from Minister Carlos López Contreras to the Ministers of Foreign Relations of the Nine Member Countries of the Contadora and Support Group. Press Communiqué

(Free translation)

24 June 1988.

Mister Minister:

I have the honor to address Your Excellency in reference to the continuous efforts of Honduras leading to the holding of meetings by the Central American Foreign Ministers, in order to adequately prepare the summit of Presidents, in which important decisions were to be adopted regarding the peace initiative of His Excellency, Mr. Oscar Arias Sánchez, President of Costa Rica.

On the occasion of the visit to Tegucigalpa of His Excellency, Mr. Marco Vinicio Cerezo, President of Guatemala, last June 16, a consensus was reached by four Central American Governments to hold Foreign Ministers' meetings prior to the Presidents' summit.

On the basis of such consensus, the Government of Honduras once again invited the Central American Foreign Ministers to a meeting that would take place at the city of Tela, on June 25 and 26, 1987, with the main purpose of "developing and establishing the sequence of the Arias initiative". Regrettably, such preparatory meetings have been systematically blocked in an attitude seeming to reflect the desisting, on the part of some Central American Governments, to celebrate the summit to deal with the proposal of President Arias.

Such circumstances led the Government of Honduras to the need of having to suspend, much to its regret, the Foreign Ministers meeting to be held in Tela.

It would be contrary to my Government's policy as well as to the interests of the Central American peoples, to see the stagnation of the peace initiatives prolonged indefinitely. Therefore, Honduras would welcome the reinitiation of multilateral negotiations within the framework of the Contadora peace initiative. Actually, the four years of negotiations conducted under the Contadora Group led to the conclusion of agreements on nearly ninety per cent of the topics under discussion.

After repeatedly failing to undertake possible direct negotiations between Central American countries, it appears wise to reiterate to Contadora its full competence as mediator of the Central American situation. On such basis, the Government of Honduras suggests that the Contadora Group proceed to call a meeting of Central American Foreign Ministers in order to exhaust negotiation of pending matters included in the Contadora Agreement for Peace and Cooperation. In the same manner and due to circumstances prevailing in the area, the Government of Honduras is pleased to offer the city of Tela as host of the first meeting of Foreign Ministers called by the Contadora Group.

Allow me to reiterate to Your Excellency the assurances of my highest consideration.

Carlos LÓPEZ CONTRERAS.

Amb. Eugenio Castro,
Director of Information,
Honduras Foreign Ministry.

2. *Letter from President Ortega to President Azcona.*
United Nations Document

22 December 1986.

Estimado Presidente:

Los últimos acontecimientos en la zona fronteriza entre Honduras y Nicaragua, provocados por los ataques armados de grupos mercenarios desde territorio hondureño, evidencian la perentoria necesidad de continuar los esfuerzos para encontrar una solución pacífica y justa a tal situación, que permita el restablecimiento de la paz y la tranquilidad en la frontera común.

No obstante estar informados de sus declaraciones sobre la propuesta de Nicaragua de solicitar conjuntamente una comisión de inspección de Naciones Unidas, también estamos informados del creciente rechazo que provoca en el pueblo hondureño, la presencia y actividades de la contrarrevolución y de las declaraciones de congresistas y otras altas personalidades hondureñas, difundidas ampliamente por los medios de prensa de Honduras, sobre las gestiones que su Gobierno estaría realizando con el Gobierno de los Estados Unidos para que los grupos mercenarios abandonen el territorio de Honduras.

Nicaragua esta consciente de que no existen discrepancias ni conflictos entre nuestros Países y que las tensiones que se suceden tienen su origen en la

política ilegal de intervención y fuerza de la administración Reagan contra Nicaragua. Guiados por esa certidumbre, como una demostración mas de la voluntad de mi Gobierno de luchar por una solución efectiva y duradera a las tensiones existentes, propongo a Usted, estimado Presidente, las siguientes acciones que mi Gobierno esta dispuesto a enprender en colaboración con el Gobierno de Honduras:

1. Nicaragua acogeria, con todas las garantias legales, a los ciudadanos nicaraguenses involucrados en actividades contrarrevolucionarias que voluntariamente deseen acogerse a la ley amnistia, siguiendo el ejemplo de los 6000 Nicaraguenses que ya se han acogido a dicha ley y que, habiendose reunido con sus familias, estan dedicados al trabajo honrado.

2. Nicaragua colaboraria con Honduras en gestiones conjuntas ante terceros países que, eventualmente, puedan ser receptores de los ciudadanos nicaraguenses que no deseen acogerse a la ley de amnistia.

3. Nicaragua, en colaboración con Honduras y el ACNUR, acogeria sin restricción alguna, a todos los refugiados nicaraguenses que voluntariamente deseen retornar, cubriendo los gastos para el traslado que no puedan ser proporcionados por ACNUR. Estos refugiados gozarian de las facilidades para su vida futura que han recibido los mas de 10300 repatriados que se encuentran en Nicaragua.

Mi Gobierno considera que estas acciones permitiran resolver, tanto las tensiones en la zona fronteriza, como el grave problema que significa para Honduras la permanencia de los grupos contrarrevolucionarios y la carga que le representan los refugiados. Asimismo, se daria respuesta al problema humanitario de los involucrados en actividades contrarrevolucionarias y de los refugiados, dandoles la oportunidad de regresar a su país y trabajar por la paz.

Estoy seguro que la gran mayoria de las naciones del mundo, recibiran con agrado estas acciones conjuntas, por todo lo que vendran a beneficiar a nuestros pueblos y a la region centroamericana. Las cuestiones contretas de esta propuesta de Nicaragua, pueden ser analizadas por nuestros Ministros de Relaciones Exteriores, en una fecha proxima en este mes de diciembre, dada la urgencia de resolver la situación en la zona fronteriza.

Estoy procediendo a comunicar la propuesta nicaraguense a los países que integran los grupos de Contadora y apoyo, asi como al Secretario General de Naciones Unidas, a quienes solicito su colaboración para lograr la materialización de la misma.

En la confianza de que Usted sabra valorar este nuevo esfuerzo de Nicaragua, pues como gobernantes nuestra primera obligación es trabajar por la paz y el bienestar de Hondureños y Nicaraguenses, reciba un cordial saludo,

Fraternalmente,
Daniel ORTEGA SAAVEDRA.

3. *Letter from President Azcona to President Ortega*
(OAS cp/Inf.2491/87)

Tegucigalpa, D.C., 24 de diciembre, 1986.

Señor Presidente:

Aviso a usted recibo de su mensaje enviado vía telex el día de hoy, aunque fechado en Nicaragua el 22 del corriente mes de diciembre. En dicho

mensaje usted se refiere a lo que identifica como "los últimos acontecimientos en la zona fronteriza entre Honduras y Nicaragua", pero que mi Gobierno califica como los hechos sangrientos derivados de la agresión militar del ejército sandinista contra la población y las Fuerzas Armadas en territorio hondureño, que dió lugar a una respuesta adecuada en ejercicio del derecho inmanente de legítima defensa.

En verdad que no existe conflictos entre nuestros países, resultando por ello incomprensible que el ejército sandinista pretenda violar impunemente el territorio hondureño. Mi Gobierno reconoce, sin embargo, que entre nuestros dos países se producen tensiones derivadas de la compleja situación centroamericana, en la cual los factores de perturbación más visibles sea los movimientos de insurgencia política armada en algunos países, entre ellos Nicaragua. Factores de perturbación que, por la fuerza de la contigüedad geográfica, tienden a implicar a las naciones vecinas, no obstante los esfuerzos que ha venido haciendo y que continúa haciendo el Gobierno de Honduras de mantenerse sustraído a los conflictos internos de los países vecinos.

Como es de su conocimiento, el Gobierno de Honduras a lo largo de más de tres años ha buscado una solución diplomática, negociada a la crisis que atraviesa Centro América, pero una solución que, desde luego, tenga en cuenta y salvaguarde los intereses políticos y de seguridad de todas las partes que intervienen en el proceso de pacificación, bajo la iniciativa del Grupo de Contadora.

Mi Gobierno está en la mejor disposición de proseguir una solución diplomática, tan pronto como el Gobierno de Nicaragua ponga en marcha acciones que restablezcan la situación existente antes del 25 de julio de 1986. De lo contrario resultará incomprensible que usted, de una parte declare "la perentoria necesidad de *continuar* los esfuerzos para encontrar una solución pacífica y justa" a la situación en la frontera, mientras, por otra parte, su Gobierno rechaza la negociación política bloqueando efectivamente la acción de Contadora, mediante el desplazamiento de la cuestión centroamericana a una instancia judicial internacional.

Tiene usted razón cuando dice que la inmensa mayoría del pueblo hondureño y el Gobierno que presido desean, en forma vehemente, mantenerse sustraídos a la violencia que se produce en el interior de algunos países centroamericanos y que amenaza con implicar a otros Estados. Deseo reiterarle que mi Gobierno persigue una solución pacífica, de carácter global, a la situación de seguridad centroamericana y que, obviamente, iría en detrimento de los intereses de seguridad hondureños aceptar soluciones parciales que solo beneficien los intereses de otro Estado. Asimismo, en repetidas ocasiones he manifestado que es sumamente difícil lograr este objetivo, mientras todos los Gobiernos del área no tengan una concepción común de lo que es la democracia representativa, pluralista y participativa y actúen con el mayor respeto a las libertades públicas y a los derechos y dignidad de la persona humana.

Es por ello, Señor Presidente, que tomo nota con satisfacción, de que el Gobierno de Nicaragua acogería con todas las garantías legales, a los ciudadanos nicaraguenses involucrados en actividades contrarrevolucionarias que voluntariamente desean acogerse a la Ley de Amnistía; asimismo, que Nicaragua colaboraría con Honduras en gestionar que terceros países puedan recibir ciudadanos nicaraguenses que no desean regresar a su país; y, finalmente, que Nicaragua, en colaboración con Honduras y el ACNUR acogería sin restricción alguna a todos los refugiados nicaraguenses que desean retornar voluntariamente a su país. Mi Gobierno examina con interés el mensaje que usted ha tenido a bien dirigirme, y los diversos puntos en él con-

tenidos y de ninguna manera descarta la posibilidad de que dichas cuestiones, junto con otros que interesan de manera particular a la seguridad de Honduras, puedan ser analizados por nuestros Ministros de Relaciones Exteriores, si se restablecieran condiciones que hicieran viable el fluído el diálogo.

A propósito de la iniciativa de los Secretarios Generales de la organización de Estados Americanos y de la Organización de las Naciones Unidas, ofreciendo servicios para complementar las gestiones de pacificación del Grupo de Contadora, mi Gobierno les ha hecho la observación de que "aún se encuentran pendientes de acuerdo entre los cinco países de la región, aspectos sustantivos del Acta de Contadora para la Paz y la Cooperación en Centroamérica, así como los mecanismos de verificación y control en materia política y de seguridad". Y, además, les ha expresado que dicha proposición "abre incuestionables avenidas para la ejecución de los acuerdos que se illeguen a convenir entre las Partes y merece ser meditada con profundidad para obtener de ella los mayores beneficios en favor de la pacificación de América Central".

Estoy convencido, Señor Presidente, que es fundamental que todos los Gobiernos de América Central profundicen en las diversas iniciativas políticas de pacificación del área, y que deben eliminarse los obstáculos a la efectividad de la gestión conjunta que durante la segunda quincena de enero realizarán, cerca de los Gobierno de Centroamérica, el Grupo de Contadora para la Paz y la Cooperación en Centroamérica, su Grupo de Apoyo y los Secretarios Generales de la Organización de los Estados Americanos y de la Organización de las Naciones Unidas.

La República de Honduras ha estado comprometida en la búsqueda de una situación pacífica centroamericana. Mi Gobierno se mastiene fiel a ese compromiso.

Del Señor Presidente con toda consideración.

José AZCONA HOYO,
Presidente Constitucional de la Republica de Honduras.

4. *Statement by Minister Carlos López Contreras at the United Nations
General Assembly*

Provisional
A/42/PV.24
7 October 1987.
English

Forty-second Session
GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE TWENTY-FOURTH MEETING
Held at Headquarters, New York, on Monday, 5 October 1987, at 10 a.m.

AGENDA ITEM 9 (continued)

General Debate

Mr. López Contreras (Honduras) (interpretation from Spanish): On behalf of the Government of Honduras I extend to you, Sir, sincere congratulations

on your election as President of the forty-second session of the General Assembly. Your personal qualities and your knowledge of this world Organization guarantee wise and successful guidance of the Assembly's work. We should also like to express our appreciation to Mr. Humayun Rasheed Choudhury, the representative of Bangladesh, who preceded you in your important functions.

To the Secretary-General of the United Nations, Mr. Javier Pérez de Cuéllar, I wish once again to express my Government's great appreciation for his outstanding work in charge of the Organization.

The democratic Government of Honduras, presided over by José Azcona, constantly reaffirms its commitment to peace, development and democracy.

It should be seen as an encouraging sign that in Central America, torn by violence and political radicalization, my country is fighting resolutely for political freedom and economic and social well-being. This is so because the Honduran Government has set as its primary objectives improved living standards for the people and the consolidation and development of democracy as a system of life and of Government.

These goals are faithfully reflected in the foreign policy of Honduras. Just as domestically, at the governmental and the private levels, we are endeavouring by peaceful means to overcome the obstacles of underdevelopment, internationally, we are endeavouring to resolve our differences with other countries by resorting to the peaceful means of settling disputes contained in international law.

Other continuing conflicts threaten the system of world peace and security. We reaffirm our conviction that the question of Korea must be resolved peacefully through dialogue and negotiations between South Korea and North Korea. We reiterate that, in accordance with the principle of universality set out in the United Nations Charter, all nations that so desire must be a part of that universality and assume the obligations set forth in the Charter. There must be an end to the legacy of the cold war that persists in the Korean peninsula and in no way contributes to the attainment of international peace and security.

My Government supports the General Assembly resolutions on Kampuchea, which call for the withdrawal of all occupying forces and the restoration of the country's independence, sovereignty and territorial integrity. In this connection, we strongly support the eight-point proposal for a political settlement presented by the Coalition Government of Democratic Kampuchea to the Socialist Republic of Viet Nam.

The Government of Honduras condemns the armed occupation of Afghanistan and urges all States to reach a political solution based on the unconditional and total withdrawal of foreign forces from Afghanistan, full respect for Afghanistan's political independence, sovereignty and territorial integrity, and the adoption of measures guaranteeing the right of the Afghan people to decide its own future without foreign interference, as well as on the return of Afghan refugees to their homes.

In view of the unfortunate events recently experienced by the Government of the Philippines, we express our hope that peace and harmony will return to that country so that it can pursue its development in the framework of freedom, justice and democracy.

The persistence of the conflict in the Middle East makes it even more essential to find a lasting solution through the peaceful means of negotiations. Honduras views with satisfaction the efforts of the State of Israel and the Arab Republic of Egypt to promote peace in the region, strengthen the peace

treaty between them and resolve outstanding problems. We believe those efforts are important for the prospects of peace with other Arab States.

The armed confrontation that has continued for seven years between Iran and Iraq is a very clear example of extreme nationalism compromising world security. That war has not only claimed hundreds of thousands of victims and brought back the use of illegal methods of warfare, but also interfered with freedom of navigation and international maritime trade. My Government hopes that the belligerent States will heed the appeals of the international community for agreement on a peaceful settlement of their conflict.

The Government of Honduras takes this opportunity to reiterate its condemnation of the policy of *apartheid* of the Government of South Africa, which is a clear violation of human rights.

Once again the Government of Honduras states its sincere hope that the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland, countries with which we have traditionally maintained the best of relations, will settle their differences on the highest level of justice, understanding and peace. The Government of Honduras would be most willing to co-operate — if its efforts might prove useful — in the attainment of a speedy settlement of the dispute.

One of the objectives of this Organization is the promotion of its purposes and principles through regional co-operation, which finds its reflection in various kinds of co-operation with other intergovernmental organizations. We are pleased that an item has been included in the agenda of the present session relating to co-operation between the United Nations and the Organization of American States. This is the result of an initiative by Honduras, with the support of many other Latin American States. It will surely contribute to the common search for solutions to the many economic, social, cultural and humanitarian problems that beset the international community.

Another purpose of the United Nations system is to promote technical co-operation for development, and that is particularly important for my country. In this regard, the Government of Honduras appreciates the many co-operative efforts being made by organs and bodies within the United Nations system; in particular we appreciate what has been done so effectively in Latin America by the United Nations Development Programme (UNDP).

My Government is pleased that the fourth UNDP programme of co-operation for Honduras has been adopted and will support the activities of those organizations in the area of forestry and agriculture, public enterprises working in this area and technical co-operation among developing countries. The fourth programme will make it possible for Honduras to give attention to environmental problems and the protection of natural resources as a matter of priority.

We should like to emphasize that the adoption by the United Nations Children's Fund (UNICEF) of the support programme for the new period is important to Honduras. It will make possible the adoption of a number of basic programmes protecting mothers and children in Honduras.

We also welcome the design for the new five-year programme covering population activities.

In keeping with its humanitarian traditions, since 1979 about 200,000 persons have sought refuge in Honduras. They have been drawn there by a climate of peace and freedom, having fled from political and social violence in their countries. About 47,000 of those refugees have been receiving assistance from the international community — they deserve its recognition — and from other organizations.

My country has also received much assistance at the international level from

other friendly countries to help refugees. But the flow of refugees continues and will continue until a climate propitious to their return home has been created.

The promotion and respect of human rights is one of the primary purposes of the United Nations. However, the international community continues to witness barbaric acts violating human rights, freedoms, man's dignity and fundamental rights. It is therefore urgent that the international community take concerted action and wage a broad campaign against terrorism, which threatens domestic and international peace and can by no means be justified.

My Government is convinced that those nations professing faith in human rights have a legal and moral obligation to protect them and to condemn the countries which inexcusably and repeatedly violate them.

Once again in the United Nations we shall consider the item entitled "The situation in Central America: threats to international peace and security and peace initiatives", which has already been the subject of a number of General Assembly resolutions. We believe that to carry out a proper analysis of the crisis in Central America it is important to understand its origins and political and social development. It is necessary to understand the colonial, federal and republican backgrounds of Central America which have led to the present economic, social, political and security situation. The accumulation of those events in the history of Central America has led to the social tension and internal struggles besetting the countries of the region today, and now the crisis has come to the periphery of East-West confrontation.

Internal conflicts in certain countries have led to a massive exodus of refugees, whose repatriation must be undertaken in keeping with the commitment to national reconciliation. This cannot be delayed, lest economic and social problems become more acute. Of late, one of the primary receiving countries of refugees has been Honduras.

The persistence of these internal conflicts has caused irreparable harm to economies, productive investments, and the social and security balance in neighbouring countries; armed opposition movements have tried to use border areas as sanctuaries and all too frequently those actions have led to claims, protests, tensions and even armed raids such as those suffered by Honduras in March and December 1986. Those raids have prompted the Honduran army to expel aggressor forces from our national territory.

The arms race is another force disruptive to peace in Central America; it too has led to growing insecurity in the region. The Government of Honduras has insisted that the arms race be halted, that armaments be limited and military forces reduced — all under effective international control.

Given the abnormal situation now prevailing in Central America, Honduras has endeavoured to assume a dispassionate and thoughtful position in its relations with neighbouring countries. Our foreign policy has been realistic, *forthright and free of undue passion*.

In January 1987 the countries of Central America were honoured by the visit of the Secretaries-General of the United Nations and the Organization of American States (OAS), who met with the Ministers for Foreign Affairs of the countries of the *Contadora and Support Groups*.

Those distinguished visitors informed the Central American heads of State of their concern at the crisis afflicting Central America. The Honduran Government, which fully appreciated the visit, expressed its willingness to maintain and consolidate peace by all legal means.

On that occasion, the Secretaries-General indicated that their organizations would co-operate in the settlement of internal disputes and accompany

ing regional tensions. Their offer was greatly appreciated and proved to be an important contribution towards regional normalization.

When the President of Costa Rica proposed a new peace initiative in February 1987, my Government supported it as a suitable and timely method for maintaining peace in Central America through political negotiation. We also recommended that the peace initiative be implemented in two stages — at the national level, in relation to agreements concerning national reconciliation, that is, on a cease-fire, amnesty, democratization, supervision and control; and at the international level with the participation of the Contadora Group and the Support Group, to seek agreement on the following: the cessation of military assistance to insurgents; the non-use of territory for the launching of acts of aggression against other States; disarmament and the relocation of insurgents; limits on and control and reduction of weapons and military advisers; the arms trade; international verification and control; and co-operation on political, economic and security questions.

On 1 August, at the initiative of Honduras, the Foreign Ministers of Central America and the Contadora Group met once again, this time in Tegucigalpa, in order to continue efforts to normalize the situation in the region. We considered the Arias plan, modifications suggested by the Governments and the document entitled "Proposals by Honduras regarding peace initiatives for Central America", which attempted to harmonize the political objectives of democratization included in the plan with a Honduran recommendation that mediation by the Contadora Group be reactivated so that agreements on problems of security could be reached.

That meeting, which represented a milestone in the peace process, culminated in the signing by the Central American Presidents, on 7 August of this year in Guatemala City, of the document entitled "Procedures for the establishment of a firm and lasting peace in Central America". We are pleased that many of the proposals by Honduras regarding peace initiatives in Central America have been included in the Esquipulas II agreement, including that for active mediation by the Contadora Group in security matters.

Three important meetings have been held regarding execution of the commitments embodied in the Guatemala accord — the first in San Salvador, where an executive committee was set up; the second in Caracas, where the International Committee on Verification and Follow-up was created; and the third in Managua, where a framework for action by both committees was decided.

The Executive Committee, composed of the Presidents of Central America and invested with the power to regulate, implement and enforce compliance with the commitments entered into under the Guatemala agreement at the recent meeting in Managua, endeavoured to define principles, guidelines and orientation for the work of the International Committee on Verification and Follow-up, which was assigned the task of enforcing the various commitments entered into by the Governments. Consequently, the Executive Committee will see to it that the International Committee on Verification will have the support and facilities it needs to carry out its tasks.

Indeed, it is up to the Committee on Verification to ensure the simultaneous implementation of the agreements on amnesty, including those on irregular forces and political prisoners, a cease-fire, democratization, cessation of assistance to insurgent forces and the non-use of territory to carry out acts of aggression against other States.

The number and nature of commitments entered into are not the same for all the parties, for these depend on the political and social situation of each

country. Some Governments are called upon to implement all the commitments. Others, such as Honduras, which has avoided much of the social unrest affecting its neighbours, have entered into those parts of the agreement that apply specifically to them.

Central America, by means of the Executive Committee, now has within its control the process of a return to normalcy in countries suffering from civil war and bilateral and multilateral tension.

In order to ensure the success of the process of peace and détente in the region, it is essential that irregular forces fully accept the Guatemala agreement and act in accordance with it. This applies to those forces operating in Nicaragua and El Salvador. After irregular forces publicly accept the agreement, the Governments of Nicaragua and El Salvador must take all necessary action to agree on and implement an effective cease-fire within a constitutional framework.

All the Central American countries must ensure that their territory not be used for acts of aggression against other countries, in regard to material aid as well as to moral and propaganda considerations. Again, this is an obligation that must be fulfilled by States members of the International Committee on Verification and Follow-up and by those States expressing an interest in efforts to normalize the situation in Central America.

The Central American countries having made an international appeal for the cessation of military assistance to irregular forces and insurgents, we trust that it will be accepted and complied with, in good faith, by all the States involved in that type of activity, including those which have stubbornly denied their involvement despite proof to the contrary.

The restoration of the equilibrium of security in Central America depends upon our ability to keep out of the East-West conflict. We must recognize that if the regional crisis were not so complex it would not have taken five years of patient negotiations and the contribution of 13 countries and 2 international organizations, 1 regional and 1 world-wide, to bring about its return to normalcy.

Honduras is participating in good faith in the process agreed to in Guatemala, a process based on mutual trust, arising from the premise that all Governments will abide by the commitments they have entered into, as agreed.

The Central American homeland demands democratic peace. For that reason, we trust that the principles of good faith and mutual trust underlying the Guatemala agreement will be strengthened. That can be done by putting an end to certain international juridical situations that represent an unjustifiable threat to such principles and that are incompatible with certain international treaties provided for in the agreement.

An essential part of Esquipulas II is an appeal for the cessation of hostilities. Those Governments of the States that are at present the victims of activities carried out by irregular or insurgent groups have committed themselves to whatever action is necessary to implement a cease-fire within a constitutional framework.

An effective cease-fire is essential for the attainment of peace in those countries suffering from civil war. Once the hostilities are over citizens will, as an inevitable result of socio-political realities, return to normal civil life and take an active part in the democratization of their countries.

Once the hostilities are over, refugees will return to their countries of origin and their homes and give their families the fruit of their work, and the quiet home life that is the cement required to build national tranquillity. Once the hostilities are over, the tensions among neighbouring countries pro-

duced by such refugee movements will come to an end. Once the hostilities are over, there will no longer be any need for external assistance provided for the purpose of destabilizing Governments.

The situation in Central America is quite unlike the situation anywhere else in the world. The crisis there should not be viewed as an international conflict in the sense of hostilities among nations. Its essential characteristic is the existence of long-drawn-out civil wars in the region that have given rise to tensions among Governments. Those civil wars must therefore be brought to an end, for they are a threat to peace and security in the region.

May God enlighten the leaders of our countries and the leaders of the irregular forces now involved in those civil wars. May they enter into a patriotic dialogue, and may they reach agreement on an effective cease-fire that will lead to national reconciliation.

*5. Sapoá Agreement between the Government of Nicaragua and
the Nicaraguan Resistance.
23 March 1988: Press Clip and Translation*

[*El Heraldo*, 24 March 1988]

SAPOÁ AGREEMENT

The Constitutional Government of the Republic of Nicaragua and the Nicaraguan Resistance, meeting in Sapoá March 21-23, 1988, with the aim of contributing to reconciliation within the framework of the Esquipulas II Agreement and in the presence of witnesses, Cardinal Miguel Obando y Bravo, President of the Episcopal Conference of Nicaragua, and Ambassador João Baena Soares, Secretary General of the OAS, have arrived at the following agreement:

1. Cessation of offensive military operations in the entire national territory for a period of sixty days beginning April 1 of this year, during which there will occur a negotiating process for definitive cease-fire whose effective implementation will occur jointly with the other commitments contemplated in Esquipulas II. Both parties agree to meet at the highest level in Managua on April 6 to continue the negotiations on a definitive cease-fire.

2. During the first 15 days, the forces of the resistance will locate themselves in zones whose locality, size, and *modus operandi* will be mutually agreed to by a special commission in a meeting in Sapoá to begin Monday, March 29.

3. The Government of Nicaragua will decree a General Amnesty for those tried and sentenced for violation of the law of maintenance of order and public security, and for the members of the army of the previous régime for crimes committed before July 19, 1979. In the case of the first group, amnesty will be gradual, taking into account the religious sentiments of the Nicaraguan people on the occasion of Holy Week, and will begin with the liberation of the first 100 prisoners on Palm Sunday. Subsequently, upon verification of the entry of the Nicaraguan Resistance Forces in the zones mutually agreed upon, there will be freed 50 per cent of the prisoners. The remaining 50 per cent will be freed on a date after signature of the cease-fire and will be agreed upon in the meeting of April 6 in Managua.

In the case of the prisoners referred to in the second category of the first paragraph under this number, their liberation will begin with the signature of the definitive cease-fire under guidelines (*previo dictamen*) of the Inter-American Human Rights Commission of the OAS.

The Secretary General of the OAS will be the guarantor and trustee (*depositorio*) of the implementation of the Amnesty.

4. With the objective of guaranteeing food and basic supplies for the irregular forces, they will arrange for and accept exclusively humanitarian assistance, consistent with Article 5 of the Esquipulas II Agreement, which will be provided by neutral organizations.

5. The Government of Nicaragua will guarantee unrestricted freedom of expression as contemplated in the Esquipulas II Agreement.

6. Once the forces of the Nicaraguan Resistance are concentrated in the zones mutually agreed to, (the Resistance) can send to the National Dialogue as many delegates as the political organizations that make it up, up to a maximum of eight. In the National Dialogue there will be considered, among other topics, that of military service.

7. There is guaranteed to all persons who, for political motives or any other reason, have left the country, the ability to return to Nicaragua, be integrated into the political, economic, and social processes without any type of condition other than those established in the laws of the Republic. They will not be judged, punished, or persecuted, for activities of a political/military nature that they may have undertaken.

8. The Government of Nicaragua confirms that those persons who have been reintegrated into a peaceful life can participate with equal conditions and guarantees in the elections for the Central American Parliament, and the municipal elections on the dates that are established for these, as well as in the national general elections on the date established by the Constitution.

9. To put into effect the verification of compliance with this Agreement, the Verification Commission will be established, composed of the President of the Episcopal Conference of Nicaragua, His Eminence Cardinal Miguel Obando y Bravo, and the Sec. Gen. of the OAS, His Excellency João Baena Soares.

The technical assistance and the services necessary for this commission, that would permit and expedite compliance, follow-up, and verification of this agreement, will be solicited and entrusted to the Sec. Gen. of the OAS.

Addenda:

Both sides agreed to extend to April 1 of this year the cessation of offensive military operations previously agreed to by both parties on March 21, 1988.

[Spanish text not reproduced]

6. *Press Communiqué of 19 April 1988 on Transit of Humanitarian Aid through Honduras*

Free Translation

The Ministry of Foreign Relations herewith informs the national and international media, that:

Considering:

that the Government of Nicaragua and the Nicaraguan Resistance agreed on a provisional cease-fire as a result of the meetings that took place in Sapoá, Nicaragua;

that the funds approved by the Congress of the United States of America in the form of humanitarian aid are the expression of a bipartidist policy in accordance with said cease-fire and the consent of the parties interested;

that the assistance for the delivery of said aid is expressly included in the undertaking of numeral 5 of the "Procedure for establishment of a firm and lasting peace in Central America", signed by the Presidents of Central America, on August 7, 1987¹;

that the beneficiaries do not fall within the international aid of the High Commissioner of the United Nations for Refugees;

Therefore:

the Government of Honduras has authorized the delivery of such aid to the Nicaraguan population that is in Honduran territory in the border with Nicaragua, under the responsibility and co-ordination by representatives of AID, Price Waterhouse of Honduras, the Catholic Church, and the Embassy of the United States of America.

7. *Speech by the Secretary of Foreign Affairs of Honduras*
Carlos López Contreras

SEVENTEENTH ORDINARY PERIOD OF THE GENERAL ASSEMBLY
ORGANIZATION OF AMERICAN STATES

Washington, D.C.,
November 12, 1987.

Mr. Chairman,
Mr. Foreign Secretaries,
Mr. Secretary General,
Mr. Assistant Secretary General,
Mr. Delegates:

After listening with attention to the distinguished speakers before me, I have been able to verify the consensus existing in some of the topics that have been dealt with. But in none has that consensus been more evident than in the unanimous manifestation of satisfaction on the election of the Foreign Minister of Costa Rica as Chairman of this General Assembly.

¹ UN document A/42/521.

The Government of Honduras, under President José Azcona, widely identified with ideas of peace, liberty and democracy that also inspire the Government of Costa Rica, joins others in congratulating Minister Madrigal Nieto with the conviction that his experience, shrewdness, perseverance and diplomatic finesse more than guarantee fruitful and positive achievements for this General Assembly.

Mr. Chairman:

It is most unfortunate to admit that our Organization, in spite of the efforts of Secretary General Baena Soares, continues suffering an almost paralysing crisis, both economically and financially. Such phenomenon, in itself reason of concern, would entail alarming characteristics if it reflected lack of interest of the Member States in the Organization and in what it stands for. It would be like abandoning the dreams of our heroes, seeing the United America of Bolivar and Valle turn into a group of thirty separate countries, perhaps joined in small nuclei in search of their own individual fates.

The economic-financial problems would become an effect and not the cause of the present crisis, which manifests itself in different ways: the timorous manner with which the Organization has faced the different regional problems and the reluctance to start using the mechanisms that would turn the Organization more operative as provided in the Cartagena Protocol which as of this date has only been ratified by fourteen countries and may run the same luck of the 1975 Protocol of Reforms to the International Treaty for Reciprocal Assistance. The absence of political will to amend the Pact of Bogotá or to approve a new American Treaty of Pacific Solutions is similarly significant.

We thus find ourselves in an Organization on the brink of bankruptcy, whose basic instruments are disarticulated and uncoordinated.

In spite of all this, it is convenient to admit that in the past year, thanks to the initiative of Secretary General, Ambassador João Clemente Baena Soares, together with the Secretary-General of the United Nations, Ambassador Javier Pérez de Cuéllar, both organizations finally participated, in an active manner, on the search of solutions to one of the crises in the Continent: The Central American situation.

With respect to this inter-organizational cooperation, I have the pleasure to inform you that on last October 28th, the United Nations General Assembly approved by consensus the draft of a resolution presented by the Honduran Delegation with the co-sponsorship of all the OAS Member States, except one. Such Resolution is an invitation by the Secretary-General of the United Nations to:

- procure additional cooperation and coordination between both organizations and their specialized organisms;
- submit in 1988 a report on the application of said resolution, maintaining the inclusion of the subject in the forty-third period of the General Assembly.

Mr. Chairman:

Several historic circumstances, external factors and the same political crisis affecting Central America are attempting against the well-being and future development of the area. Facing such situation and fully conscious of the close links joining peace, democracy and development, it is evident that Central America deserves more assistance in its effort of recovering with the

aid of friendly countries and institutions of international technical and financial cooperation. The Government of Honduras acknowledges the Secretariat General's compliance with mandates aimed at ensuring an effective treatment to particular problems in the Central American area as a whole and in Honduras in particular.

In this sense, I wish to emphasize the compliance with the Resolution of the Fourteenth General Assembly, seeking for better attention to the needs of development of Central America. In the last months, the Secretariat General, with the support of the Inter-American Development Bank and the Pan-American Health Organization, has backed national efforts to carry out an international meeting of donors, in order to channel resources aimed at tending to the social needs of the poorest sectors in all the countries in the area.

My country is participating with interest in the Program of Social Investments for Development of the Central American Isthmus, which constitutes the basis for that meeting. On this occasion, Honduras wishes to highlight the valuable support being received from the Secretariat General in this field.

Mr. Chairman:

Respect to human rights is the foundation on which the democratic state of law must stand. True democracy cannot exist without respect to human rights. Democracy and human rights are both values of the same equation.

The Government of Honduras, a result of the people's will expressed in free and honest elections, is based on full respect to human rights, acknowledging in the human person — whose dignity is inviolable — the supreme end of society and the State.

For this reason, Honduras appears among the first countries to ratify the 1969 American Convention of Human Rights and to accept the jurisdiction of the Inter-American Court, without any reservations nor conditions.

During the last decades, our Continent has bled as a result of indiscriminate violence brought by terrorist actions, internal confrontations bordering with civil wars and the logical mass violations of human rights.

Central America has been suffering from endemic subversive movements as far as thirty years ago and since 1978 to date, the area has faced domestic armed struggles causing over one hundred thousand dead, wounded and missing persons, thousands of prisoners and political exiles, as well as considerable material damages. Honduras, however, thanks to its consolidated democratic process has managed to withdraw itself from those conflicts. Instead of generating refugees, it has received more than two hundred thousand Central American refugees who have found shelter in the climate of peace and liberty prevailing in Honduras *in spite of the enormous economic difficulties we are facing at present.*

Notwithstanding that Honduras works in peace devoting its major efforts toward the strengthening of democracy, aimed at its people's integral development, at safeguarding human rights of hundreds of thousands Central American refugees to whom it provides safe shelter, while attempting through all kinds of means to bring the area back to normal conditions, our country finds itself in a quite paradoxical situation.

It is the first nation to be accused by the Inter-American Commission of Human Rights before the Court for alleged violations that supposedly took place in previous régimes.

However, the Government of Honduras, far from feeling humiliated or insulted by such accusation, believes that it should be used as an example to

several sectors trying to condemn us, whose action, if they are in fact defending human rights, should be oriented instead towards having their Governments submit themselves to the jurisdiction of the Inter-American Court of Human Rights, in the same broad manner shown by Honduras.

It suffices to say that once again the Government of Honduras is proceeding with characteristic correction and serenity, honoring its legal obligation by appearing before the International Court to present its defense allegations.

On the question of human rights, good intentions are not enough; concrete and urgent actions are required. I, therefore, urge the other members of this Organization to follow the example set by Honduras — if they have failed to do so — and proceed to accept the unconditional jurisdiction of the Inter-American Court of Human Rights. Such acceptance would become the best proof that true respect of human rights is far more than a stereotyped and convenient posture.

Led by the firm spirit inspiring us and true to honor the compliance with the “Procedure for the establishment of a firm and lasting peace in Central America”, in the middle of last October the first massive repatriation of the area took place in the Honduran-Salvadorean border, with 4,311 Salvadorean citizens returning to their country. Similarly, in the Oriental region of Honduras, the voluntary repatriation program has allowed the return of 2,504 Nicaraguans. It is our hope that this program will be increased until every Central American is able to live in his own nation, free from violence and repression.

Mr. Chairman:

It is convenient to clarify that the so-called Central American crisis has its own characteristics, consisting of prolonged isolated civil wars which have originated tensions between nations without producing any armed international conflicts, apart from some armed incidents at the borders.

As has been repeatedly said, this crisis became more serious when it found itself amid the East-West confrontation, with its sequel of domestic struggle in some countries and the interminable currents of refugees.

The Contadora Group is born as a result of this dramatic situation. The Group offers its disinterested mediating efforts, accepted with hope and satisfaction by the Central American Governments. This is so because, as brilliantly expressed by the great Peruvian jurist, José Luis Bustamante y Rivero,

“among institutions of law, there are some which excel for discretion and this is the case of mediation. It evolves quietly, without boasting or exaggerating signs. It moves in the shade, it does not cast shadows on anybody . . . and in the dimness of its sobriety, its influence is felt as an advice and not as a mandate . . .”

It is then this mediating effort the one that will help us continue negotiations still pending in the fields of security and verification and control in the draft of the Contadora Act.

Domestic conflicts, as I mentioned before, have originated massive emigrations of refugees, whose repatriation is imperative, in a clear response to compliance with national reconciliation commitments.

This is one of the fundamental commitments found within the sphere of Contadora’s mediating role because it implies dialogue, cease-fire, amnesty, tolerance, refugees’ repatriation and human rights to arrive at democratization and return to normal conditions.

Armamentism is another factor of disturbance and insecurity in Central

America. Consequently, Honduras has insisted in the termination of arms build-up, as well as on limitation, reduction and control of armaments and troops. In this context, the Contadora Group has been reiteratedly provided with its first instance mediating role, which must not be frustrated due to uncompromising attitudes, as it already occurred in the past, since that role is a key solution to control extraregional military presence in the area.

On February 1987, when the President of Costa Rica, Mr. Oscar Arias, honored now, to our satisfaction, with the Nobel Prize for Peace, proposed a new peace initiative, my Government considered it a constructive option for maintaining peace in Central America within the context of political negotiations.

On July 31, 1987, at the initiative of Honduras, the Foreign Ministers of Central America and the Contadora Group met again after a year, this time in Tegucigalpa, aiming to continue with their efforts to bring the region back to normal. The agenda comprised the Arias Plan, the suggestions made by the Governments and the document entitled "Honduran Proposals with regard to the Peace Initiatives for Central America", oriented towards the *harmonious merging of the political objectives of domestic reconciliation included in such plan with the Honduran recommendations for reactivating the Contadora Group's mediation in the field of security.*

This meeting proved to be a landmark in the pacifying process, which culminated with the subscription in Guatemala, by the Central American Presidents of the document "Procedure for the establishment of a firm and lasting peace in Central America" on August 7, 1987.

As provided for in the Guatemala agreement, five important meetings have been held to date: the first one took place in San Salvador, where the Executive Commission was established; the second was held in Caracas, where the International Commission on Verification and Follow-up was formed; the third meeting, in Managua, established the framework for both Commissions; the fourth, in San José, permitted the Executive Commission to set the scope of the simultaneity principle regarding the compliance with agreed commitments and finally, the fifth meeting, in the headquarters of our Organization, where the International Commission on Verification and Follow-up took notice of the steps taken by the Governments for complying with such commitments.

The Executive Commission, in its character of delegate organ of the Central American Presidents, has described the principles, the directives and the orientations to guide the tasks of the International Commission on Verification and Follow-up, in its role of facilitating organ for compliance with their respective commitments by the Governments.

Consequently, the Executive Commission will see to it that the International Commission on Verification and Follow-up is assisted and supported with the necessary means to fulfill its function.

Mr. Chairman:

Central America, through the Executive Commission, has under its command and control the process of return to normality, both in the cases of countries with civil wars, as in the ones concerning bilateral and multilateral tensions derived from such conflicts.

In order to guarantee the success of the pacifying and distension process, it is fundamental that irregular forces fully accept the Agreement of Guatemala, proceeding to act accordingly. This includes those forces in El Salva-

dor, as well as the ones in Nicaragua and Guatemala. Once such public acceptance is achieved on the part of the irregular forces, the Governments of El Salvador, Nicaragua and Guatemala must undertake all the necessary actions "to reach an agreement and bring about an effective cease-fire, in accordance with the Constitution".

In conformity with the agreements of Esquipulas II, it is essential that all the Central American countries impede the use of their territory for acts of aggression against other States, both from the material point of view as from the one pertaining to moral and propaganda support. This obligation must also be fulfilled by the Member States of the International Commission on Verification and Follow-up and in those countries interested in the success of our efforts to bring the area back to normal.

When the public appeal to terminate military aid to irregular forces is made, we trust that it will be accepted and complied with by all the nations engaged in this type of activity, including those who repeatedly deny it, in spite of the evidence in contrary.

Honduras is a good faith participant in the procedure of Guatemala, founded on reciprocal trust, under the premises that all governments will comply with the corresponding commitments, as agreed.

The Central American fatherland demands that such principles of good faith and reciprocal trust on which the Agreement of Guatemala is sustained be strengthened through the elimination of international legal actions which represent an unjustifiable challenge to such principles.

An essential part of the "Esquipulas II" document is the appeal to cease hostilities and it is because of this that the Governments of those States, where irregular or insurgent groups are currently active, have committed themselves to undertake all necessary steps to bring about a cease-fire and national reconciliation, pursuant to the Constitution.

In effect, if hostilities cease in those countries suffering from a civil war, the national reconciliation process shall have begun; refugees will go back to their native land and tensions produced by those seeking a sanctuary in the bordering lines will end between neighboring countries. Consequently, the work of the International Commission on Verification and Follow-up will be made easier and the same thing will apply to compliance with commitments on the part of other governments undergoing tensions generated by domestic conflicts.

Mr. Chairman:

As I stated before, the main characteristic of today's situation in Central America is that it is the result of prolonged civil wars which generate tensions between governments. It is then necessary to put an end to these civil wars because they threaten security and peace in the area. This is why it is so important for national reconciliation processes to devote their best efforts to their achievement.

In this sense and even though Honduras is not included in those cases "where deep divisions have taken place within society", the President of the country, exercising his constitutional powers, resolved to establish a National Commission of Reconciliation in order to offset some ill-intentioned opinions, pretending to argue that the failure to establish said Commission stood for non-compliance of the procedure agreed in "Esquipulas II".

In the same manner, my Government is honored to comply with the "commitment to prevent the use of its own territory by persons, organizations or

groups seeking to destabilize the Governments of Central American countries and to refuse to provide them with or allow them to receive military and logistical support". We have faith that this obligation will also be complied with by the other Governments and, in order to guarantee such compliance, Honduras is willing to request the presence of an international security commission in the countries' bordering lines, especially the ones pertaining to El Salvador and Nicaragua, to ensure that such lines are not crossed over by subversive elements, from one side to the other and vice versa.

Mr. Chairman:

The Central American Presidents upon subscription of the "Procedure of Guatemala", agreed to establish a ninety-day term for the execution of those commitments involving a series of actions at the same moment of those other one single action commitments. This balanced system of compliance with the agreements would ensure the simultaneity in such compliance.

Accordingly, the verification and follow-up of the commitments accepted under the "Procedure of Guatemala" necessarily imply parallel actions as to the moment in which such commitments must begin to cast their effects. The principle of harmonious interaction and the complementarity in the fulfillment of the commitments themselves with the corresponding verification and follow-up is evident on the basis of the Agreement adopted by the Executive Commission during its III Meeting.

The Government of Honduras considers that verification must provide equal treatment to commitments of both political and security nature. The mechanisms established by the International Commission on Verification and Follow-up throughout the area will give a better opportunity to fortify trust among the countries in the area.

Ever since the "Esquipulas II" document was subscribed, as well as during the subsequent meetings, Honduras has insisted, as provided for in item 7 of the Agreement, that the Central American Governments, with the mediating participation of Contadora, proceed with negotiations on pending matters in the fields of security, verification and control in the draft of the Contadora Act for Peace and Cooperation in Central America.

However, it was not until the third meeting of the Executive Commission in San José, Costa Rica, on October 27-28, 1987, that the agreement to proceed with negotiations on limiting military armaments and troops within the following forty-five days was adopted.

Once again, before this General Assembly, I urge the other Central American countries and the Contadora mediating Group to conclude the negotiation of these essential aspects of regional security.

Mr. Chairman:

It is necessary to recover the spirit of harmony and understanding, by means of concrete actions leading to normalization and distension in Central America.

With the realism that should preside our acts, it is advisable to recognize that the International Commission on Verification and Follow-up, during its meeting at this House last Saturday, in effect verified — in the light of the Governments' public reports and statements on conditionality, that the five fundamental commitments set forth in item 11 in the Guatemala Agreement did not become effective publicly and simultaneously, as agreed by the Central American Presidents.

The Government of Honduras is in the best disposition to impede the failure of our peace efforts, without excluding an urgent call for a new Central American Presidential summit, aimed at evaluating and readjusting the Peace Plan, wherever necessary, since aside from the Executive Commission, there is no other organ to evaluate or interpret such plan.

The Government of Honduras considers as a decisive contribution to strengthen trust and regional peace, the implementation of the following actions by the Government of Nicaragua:

First: withdrawal of offensive military troops and equipment from the border line with Honduras;

Second: cessation of violations to Honduran air, land and maritime space;

Third: cessation of bombings and planting of antipersonal mining devices in Honduran territory and kidnappings of Honduran citizens;

Fourth: cessation of political-military interventions in the other Central American States;

Fifth: restoration of full jurisdiction of the mediating effort of the Contadora Group; and,

Sixth: dialogue with the Nicaraguan armed opposition for national reconciliation purposes and the issuance of a broad and unconditional amnesty.

On the other hand, in a harmonious interaction with the aforementioned, the Governments of El Salvador, Honduras and Nicaragua could undertake the following joint actions:

First: to request the establishment of an International Security Commission in the borders of Honduras-El Salvador and Honduras-Nicaragua, responsible for:

- (a) monitoring and denouncing aggressions against nationals and against the Honduran territory;
- (b) denouncing and impeding the entrance of armed irregular forces from El Salvador and Nicaragua into Honduras;
- (c) disarming and confining in internationally inspected camps irregulars from El Salvador and Nicaragua seeking sanctuary in Honduran territory; and,
- (d) impeding irregulars or refugees the use of frontier lines for military purposes.

Second: to urge for the establishment of civil mechanisms of an international character, to allow for:

- (a) the organization of admission centers and camps for confining disarmed irregulars from El Salvador and Nicaragua;
- (b) the admission of disarmed irregulars, providing them with humanitarian assistance;
- (c) the repatriation or relocation to third countries within a 3-month period of irregulars having laid down their arms in Honduran territory; and,
- (d) the facilitation of repatriation programs of Nicaraguan and Salvadorean refugees.

With regard to security matters, the Government of Honduras announces its decision to consider a timetable for the withdrawal of temporary US military personnel from its territory, provided that the Government of Nicaragua, in a simultaneous and verifiable manner, sets a timetable for the withdrawal of

military forces of Soviet bloc countries in Nicaragua and maximum limits or applicable reductions on military armaments and troops are agreed upon by both countries.

Likewise, if there is a relaxing of tensions between the Governments of the United States of America and Nicaragua, and if both parties agree to negotiations, the Government of Honduras would be very pleased for those negotiations to take place in its territory, thus, as of now, Honduras extends its most cordial invitation.

Mr. Chairman:

Honduras has not been a cause of the crisis that saddens Central America. On the contrary, the country suffers from its consequences. It is time now to say *enough!* Enough to violence, enough to oppression, *enough* especially to indecision to confront basic problems due to demagogic or circumstantial reasons.

Our Organization was created to achieve orderly peace and justice in the Continent, on the basis of the effective exercise of representative democracy.

Such beautiful concepts did not originate from the inspiration of a dreamer nor are they a simple lyrical and utopic vision. Quite the contrary, they are carved indelibly in the deepest corner of the soul of the man of the Americas.

The American Continent after two hundred years continues in its struggle to become the true land of hope and freedom. Much blood has been shed and will continue to be shed to reach and consolidate such goals. Everything seems to indicate that we are to win the battle. This is evidenced by the present crushing majority of democracies in our vast continent, expected to become universal.

What the Latin American people demand is for us to show without shame nor hesitation the virile boldness of our ancestors in defending their conquests.

Only if we nail down forever, in the highest peak of the American Continent the banner of justice and liberty shall we be able to justify the existence of our Organization and the reason of being of our own nations.

[Spanish text not reproduced]

8. Press Communiqué by Representatives of Canada, Federal Republic of Germany and Spain, on Verification in Central America

25 May 1988.

TEXT OF THE PRESS RELEASE DELIVERED TO THE FIVE CENTRAL AMERICAN
AMBASSADORS ACCREDITED TO MADRID, BY THE GENERAL DIRECTORS
FOR IBEROAMERICA FROM CANADA, FEDERAL REPUBLIC
OF GERMANY AND SPAIN

Representatives of the Federal Republic of Germany, Canada and Spain met in Madrid on 25 May 1988.

The principal aim of this meeting was to exchange, in a generic and informal

way, points of view about the role the three countries could play in the verification of the peace process of Central America, in relation to the Declaration of 7 April 1988 of the Executive Commission of the Esquipulas Agreement, that was forwarded to them through the offices of the Secretary-General of the United Nations.

In conformity to the Declaration of April 7, the task of the three countries appointed would be the integration of the mechanisms of verification, follow-up and control.

This Declaration also alluded, specifically, to the terms of reference that the three countries would present to the Executive Commission for their consideration. The possible terms of reference were discussed in the meeting.

The three countries are in awaitance of a formal invitation from the five Central American countries.

The three countries said to be honoured by the trust bestowed to them by the Central American countries in considering their collaboration in the process of verification, and confirmed their wish to co-operate to the peace process in the way that is deemed most appropriate.

The meeting in Madrid has served to make clear the nature of the task that has to be performed and to prepare the three countries for a prompt reaction in case they should receive a formal invitation from the Central American countries.

[Spanish text not reproduced]

9. *Fifth Meeting of the Executive Commission of Ministers of Foreign Relations of Central America. Guatemala, 7 April 1988*

V REUNION DE LA COMISION EJECUTIVA

ESQUIPULAS II

La Comisión Ejecutiva, integrada por los Ministres de Relaciones Exteriores de Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua se reunió en la ciudad de Guatemala, los días 23 y 24 de marzo y 7 de abril de 1988, con el propósito de analizar la situación prevaleciente en el área y las medidas a aplicar o recomendar por la Comisión Ejecutiva, a fin de continuar con el cumplimiento de los compromisos contenidos en el Procedimiento de Guatemala y en la Declaración Conjunta de los Presidentes Centroamericanos, suscrita en Alajuela el 16 de enero de 1988.

Como resultado de sus deliberaciones, la Comisión Ejecutiva

ACORDO:

1. De conformidad al Procedimiento para establecer la paz firme y duradera en Centroamérica y a la Declaración de Alajuela, crear el sistema de verificación, control y seguimiento de los compromisos contenidos en dichos Acuerdos.

Las Comisiones Nacionales de Reconciliación verificarán el cumplimiento de los compromisos que a ellas les corresponde verificar, conforme al Procedimiento de Guatemala y la Declaración de Alajuela, por medio de inspecciones *in situ* o de cualquier otro procedimiento de verificación específica que

estimen conveniente y necesaria. Las Comisiones Nacionales de Reconciliación rendirán informes mensuales, de sus funciones a los Gobiernos Centroamericanos, que los discutirán en el seno de la Comisión Ejecutiva.

Tratándose de los compromisos en materia de seguridad, la Comisión Ejecutiva solicitará por medio del Secretario General de Naciones Unidas, la colaboración de un Grupo Técnico Auxiliar integrado por personal especializado de los Gobiernos de Canadá, España y la República Federal de Alemania, Gobiernos que han manifestado el deseo de colaborar en el proceso de paz de Centroamérica para que conformen los mecanismos de verificación, control y seguimiento.

Una vez formalizada la referida solicitud, el Grupo Técnico Auxiliar dictará sus normas de funcionamiento que comunicará a la Comisión Ejecutiva para su consideración. En el desempeño de sus funciones, mantendrá contactos directos con las autoridades que señalen los respectivos Gobiernos de la región. Presentará informes mensuales del resultado de sus labores a la Comisión Ejecutiva, la que los analizará y, en lo que crea pertinente, le hará las observaciones del caso.

Decide igualmente la Comisión Ejecutiva, a nombre de sus Gobiernos, celebrar un Tratado de Amistad y Cooperación Regional, el que habrá de suscribirse en la VI Reunión de la Comisión Ejecutiva a celebrarse en la República de Honduras en el mes de mayo próximo, el cual consignará, entre otros principios de importancia, que las Partes se comprometen de manera firme e irrevocable, a hacer siempre uso de los procedimientos de solución pacífica de las controversias, renunciando al uso de la fuerza o a cualquier otro medio coercitivo, a fin de afianzar de esta manera, la mejor convivencia entre sus pueblos.

En tal virtud, los Cancilleres se comprometen a designar, en el término de los próximos ocho días, a los funcionarios respectivos que participarán en el Grupo Técnico que negociará los términos del Tratado en mención.

En atención a los Acuerdos adoptados en esta Reunión, a los cuales los Cancilleres reconocen especial validez y firmeza, así como a los progresos alcanzados dentro del Procedimiento de Guatemala, el señor Canciller de Nicaragua declara que, habiéndose cumplido los propósitos previstos para la VI Reunión de la Comisión Ejecutiva en Honduras, se habrá fortalecido el Procedimiento de Guatemala, ya que dichas medidas contribuyen significativamente al restablecimiento de la confianza entre los países del área y que, en esa virtud, se compromete a presentar ante la Corte Internacional de Justicia, el desistimiento del Gobierno de Nicaragua de la demanda iniciada contra el Gobierno de Honduras el 28 de julio de 1986, lo que hará a más tardar el día en que se celebre la VI Reunión de la Comisión Ejecutiva, que tendrá lugar en el mes de mayo del año en curso en la República de Honduras.

2. Urgir a las fuerzas armadas irregulares y a los movimientos insurreccionales a que, a través de los mecanismos ya establecidos en el Procedimiento de Guatemala, los miembros de dichos grupos o fuerzas, se dispongan seriamente a la conclusión del cese al fuego, con el fin de integrarse a los procesos democráticos auténticos y pluralistas, con plenas garantías de sus derechos a la vida, la libertad en todas sus formas — incluyendo el goce total de los derechos civiles y políticos —.

3. De igual manera reiterar su demanda más enérgica a los Gobiernos regionales y extrarregionales que estuvieren dando cualquier tipo de ayuda o respaldo, abierto o velado a los grupos insurgentes o fuerzas irregulares, para

que lo cesen inmediatamente como acción indispensable para lograr la paz estable y duradera de la región. Se exceptúa de esta disposición la ayuda humanitaria contemplada en Esquipulas II.

4. Señalar que ha sido preocupación constante de los países centroamericanos obtener los recursos suficientes en condiciones apropiadas para su desarrollo integral, como una contribución efectiva para la consecución de la paz y el afianzamiento de la democratización de sus pueblos.

Por lo que se congratulan de la presentación, por parte de la Secretaría General de las Naciones Unidas, de la "Bases de un plan especial de cooperación dirigido a Centroamérica", instrumentación del punto 6 de la Resolución 42/1 de la Asamblea General de las Naciones Unidas.

Solicitar, en consecuencia, que se analice de inmediato dicho plan a fin de encontrar fuentes financieras indispensables para hacer realidad los postulados contenidos en el citado documento. Su aprobación constituirá un factor determinante de desarrollo y la paz de los cinco países centroamericanos.

Considera igualmente, que es de especial importancia que en la determinación de prioridades y en la ejecución misma del plan, tengan estas naciones una plena y directa participación.

5. Reiterar su honda preocupación por el gran número de refugiados y desplazados en la región como consecuencia de la situación que atraviesa Centroamérica y, de acuerdo con la recomendación de la Subcomisión de Refugiados y Desplazados, convocar a una Conferencia Internacional sobre soluciones a favor de los refugiados centroamericanos con el co-auspicio de ACNUR, a la brevedad, e invitar a otros países afectados directamente por este problema a que apoyen ampliamente esta convocatoria.

6. Que todas las disposiciones contenidas en la presente Declaración Conjunta serán confirmadas en su próxima reunión a verificarse en la República de Honduras, ya que deberán realizarse consultas con los países invitados e implementarse los mecanismos de verificación.

7. Agradecer al Pueblo y Gobierno de Guatemala la fraternal hospitalidad y las facilidades brindadas a los miembros de la Comisión Ejecutiva y sus Delegaciones durante su permanencia en el país, que contribuyeron significativamente al éxito de la reunión.

Guatemala, 7 de abril de 1988.

Rodrigo MADRIGAL NIETO,
Ministro de Relaciones
Exteriores y Culto de la
República de Costa Rica.

Ricardo ACEVEDO PERALTA,
Ministro de Relaciones
Exteriores de la
República de El Salvador.

Alfonso CABRERA HIDALGO,
Ministro de Relaciones
Exteriores de la
República de Guatemala.

Carlos LÓPEZ CONTRERAS,
Secretario de Relaciones
Exteriores de la
República de Honduras.

Miguel D'ESCOTO BROCKMANN,
Ministro del Exterior de la
República de Nicaragua.

*Professor Bowett,
(Public sitting, 13 June 1988)*

*Journal of the United Nations,
Friday, 20 June 1986, No. 86/117 (Part II). (See p. 153, supra.)*

Signatures, Ratifications, etc.

[MULTILATERAL TREATIES DEPOSITED WITH THE SECRETARY-GENERAL]

Declaration recognizing as compulsory the jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute of the Court
Declaration replacing
that of 10 March 1986: Honduras (6 June 1986)¹

[TRAITÉS MULTILATÉRAUX DÉPOSÉS AUPRÈS DU SECRÉTAIRE GÉNÉRAL]

Déclaration reconnaissant comme obligatoire la juridiction de la Cour internationale de Justice en application de l'article 36, paragraphe 2, du Statut de la Cour
Déclaration remplaçant
celle du 20 mars 1986: Honduras (6 juin 1986)²

88. THE REGISTRAR TO THE AGENT OF NICARAGUA

14 June 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 10 June 1988, enclosing a copy of the text of the submissions of Nicaragua at the close of the first round of oral argument in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, in accordance with Article 60, paragraph 2, of the Rules of Court.

89. THE AGENT OF NICARAGUA TO THE REGISTRAR

15 June 1988.

I have the honour to refer to the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

¹ The date of receipt of the relevant documents.

² *Date de réception des documents pertinents.*

I hereby transmit to the Court copies of the following documents to which Nicaragua's Agent or Counsel may refer on 15 June: (1) a Note of the Republic of El Salvador to the Organization of American States dated 24 November 1973; (2) an open letter by the Foreign Minister of Honduras, Carlos López Contreras, published in *La Tribuna* on 3 June 1988; and (3) a letter from the Secretary General of the Organization of American States to United States Secretary of State George Shultz dated 25 April 1988.

1. Note of the Republic of El Salvador to the Organization of American States

Ministry of Foreign Affairs,
Republic of El Salvador, C.A.
Office of the Secretary of State
A. 513 No. 19700

San Salvador
24 November 1973.

Mr. Secretary General:

I avail myself of this means to inform the Secretariat General under your authority, as the successor to the Pan-American Union, that the Republic of El Salvador denounces the "American Treaty of Pacific Solution" or the "Pact of Bogotá", adopted at the Ninth International American Conference, held in Bogotá, Colombia, from 30 March to 2 May 1948. I respectfully urge that you see fit to transmit this denunciation to the other High Contracting Parties.

The reasons that move my Government to withdraw El Salvador from the aforementioned collective pact, consequently freeing it from the obligations deriving therefrom towards the other contracting parties, are essentially the following:

1. On several occasions El Salvador has demonstrated its full acquiescence and has made determined efforts to put in place an effective structure for the peaceful resolution of controversies, particularly among the countries which make up the Inter-American regional system.

It would be too long to invoke here the many examples that justify the above assertion. However, they demonstrate the unwavering vocation for peace that has characterized El Salvador in the past, distinguishes it in the present, and will doubtlessly be maintained in the future. It is one of the best features of our people as they strive for individual and collective self-improvement.

El Salvador participated in the Ninth International American Conference full of interest and enthusiasm. The Salvadorean delegates to that important regional conclave signed the instrument which we now denounce, and it was ratified shortly thereafter by the corresponding authorities of the Government of this Republic.

By signing and ratifying this multilateral agreement, El Salvador undertook a reciprocal obligation with the rest of the American countries, through the structures and mechanisms of an ideal instrument for the purposes for which it was conceived.

Despite the spirit of complete solidarity that prevailed among the delegates of the 21 countries at the signing of the Pact of Bogotá, only some of those States have ratified it to date, that is, more than 25 years after its approval.

Time, and the fact that a large number of the signatory countries have not ratified it, have shown that the system set up under the Pact of Bogotá cannot effectively fulfill its purposes. Also, it is not acceptable to many American States (since many of them signed or ratified with reservations), and not all new members of the Organization have adhered to the Pact. This has led El Salvador to reconsider its position within a multilateral treaty subject to the aforementioned circumstances. The reconsideration causes us to adopt a new attitude in agreement with the feelings of the States which comprise the inter-American system.

2. On the other hand, the application of some provisions of the Pact of Bogotá could put the Republic of El Salvador in situations contrary to the spirit and the letter of Constitutional principles consecrating its sovereignty and integrity, which did not exist when the Pact was ratified by our Republic.

The above has also been a powerful motivation inspiring the current Government of El Salvador to watch over the preservation and effective application of the Constitutional principles which govern the life of the Republic, and which reflect the feelings and desires of the Salvadorean people. At the same time we are still driven by a desire to resolve international controversies directly and peacefully.

3. Although El Salvador has decided to denounce the Pact of Bogotá, this does not mean that it has rejected all means of peaceful resolution of international controversies. It is aware of the need for these means, and recognizes that there are other pertinent provisions within the inter-American system, particularly in the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, as well as the Charter of the United Nations. These proscribe the use of force except in cases of legitimate defense, protect States against aggression, and provide to States the resources by which they can resolve their differences in set peaceful procedures.

All of the American States that signed but did not ratify the Pact of Bogotá, or that signed or ratified with reservations, or never adhered to it, are in this exact situation.

Finally, my Government would like to state for the record that, because of the above reasons, El Salvador hereby denounces the Pact of Bogotá as of today. At the same time it reiterates its firm intention to continue to participate in the collective efforts currently underway to restructure some aspects of the system, in order to bring it in line with the fundamental changes that have occurred in the relations among American States.

Again, Mr. Secretary General, I beg that this denunciation be transmitted to the other High Contracting Parties. I avail myself of this opportunity to assure you of my highest and most distinguished consideration.

(Signed) Mauricio A. BORGONOVO POHL,
Minister of Foreign Affairs
of El Salvador.

[Spanish text not reproduced]

2. Open Letter by the Foreign Minister of Honduras

La Tribuna, 3 June 1988.

(Paid Space)

BY CARLOS LÓPEZ CONTRERAS

Minister of Foreign Affairs

The oral proceedings on jurisdiction and admissibility in the lawsuit entitled "Border and Transborder Armed Actions" that the Government of Nicaragua filed against Honduras on 28 June 1986 will begin on 6 June of this year.

Background

Since the beginning of the decade, the Central American governments have been using diplomatic negotiations in an effort to resolve the civil wars and bilateral and multilateral disputes which make up the Central American crisis. In some countries this crisis manifests itself in a lack of democracy, and the absence of fundamental civil and political freedoms, such as the freedom of speech and of assembly. This has led the political opposition to take up arms to change a situation it finds intolerable. The confrontation between the armed opposition and established governments caused civil war to spill over into neighbouring countries. Meanwhile, the political and military interference of the superpowers in the region came to be both the cause and effect of an unbridled arms race; the flow of hundreds of thousands of refugees; systematic armed incursions which disturb the peace and quiet of border communities; numerous violations of the national territory — by land, sea, and air — of neighbouring countries; destabilization through terrorism, subversion and sabotage; and cross border arms trafficking. The Central American countries then began negotiations on these political and security issues, as well as domestic and regional economic problems. They did so under the auspices of the Contadora Group countries (Colombia, Mexico, Panama and Venezuela), and later with the participation of the Support Group (Argentina, Brazil, Peru and Uruguay).

The Contadora Group has been playing the role of mediator in the regional crisis since 1983. In June of 1986 the Contadora Group presented a draft of the Treaty for Peace and Cooperation in Central America, which was not accepted because it left some fundamental security issues unclear. In the opinion of Honduras, it would have been dangerous to acknowledge and legally sanction a *de facto* situation: the military hegemony of one of the Central American States over the rest. I am referring to the arms race launched by the Government of Nicaragua with massive assistance from the Soviet Union.

The Procedure before the Court

On 28 July 1986 the Government of Nicaragua filed suit against Honduras in the International Court of Justice over alleged violations of its international obligations regarding non-intervention in the internal affairs of Nicaragua, and the ban on the threat or use of force against that State.

In its note of 29 August 1986, Honduras informed the Court that, in light of applicable law, the High Court did not have jurisdiction over the subject-matter of the suit filed by Nicaragua. Consequently, the Court decided it should hold a preliminary proceeding on its jurisdiction. It issued an order indicating 23 February 1987 as the deadline for Honduras to submit its Memorial,

and 22 June 1987 as the deadline for Nicaragua to submit its Counter-Memorial. Both countries fulfilled this order in the proper time and form.

The position of Honduras on the Court's lack of jurisdiction on this matter is primarily founded on the following factors.

1. What has now become a regional conflict originated in the domestic conflict in Nicaragua itself.
2. The suit by Nicaragua is an attempt to bring its internal conflict to a bilateral plane, trying to use the Court for improper, propagandistic and artificial purposes.
3. The Nicaraguan suit violates the principles established in the inter-American system. It tries to initiate another internal procedure (a legal one) to resolve a controversy, without having exhausted the one that is underway (in this case, the Contadora mediation).
4. Honduras accepts the Court's jurisdiction, to the exclusion of the subject of the Nicaraguan suit.

The Court set 20 October 1987 as the date for the oral phase of the trial on jurisdiction.

The Esquipulas II Accords

On 7 August 1987 the Presidents of the Central American countries signed the "Procedure for the Establishment of a Firm and Lasting Peace in Central America". Attached to it is an addendum by which the Presidents of Honduras and Nicaragua agreed to defer the oral phase of the trial on admissibility and jurisdiction. The purpose of the aforementioned was the withdrawal of the suit, pursuant to the progress of and compliance with Esquipulas II.

This clause manifestly acknowledged the incompatibility between recourse to legal action, and the implementation of and compliance with the Special Esquipulas II Procedure. Nicaragua's withdrawal of a similar suit it had filed against Costa Rica, also in the International Court of Justice, was the conclusive act to confirm this incompatibility.

Oral Phase

Eight months have passed since the adoption of the "Guatemala Procedure" and the Government of Nicaragua has not complied with its obligation to desist from the legal action in question. To the contrary, after its armed incursion into Honduran territory, on 21 March the Government of Nicaragua submitted a request to the International Court of Justice for interim measures of protection, within the framework of its suit against Honduras in the International Court. On 31 March, Nicaragua proceeded to withdraw its request for provisional measures, but not its original suit.

In light of the obstruction by the Sandinistas, and in order to clear the way for the normalization of Central America by freeing the Esquipulas II political procedure signed by the Central American Presidents from the interference of legal procedures, the Government of Honduras asked the International Court of Justice to set a date for the oral phase of the trial on jurisdiction.

On 20 April 1988 the Court decided that the oral phase should begin on 6 June 1988. The Government of Honduras shall uphold its position on the 6th and 7th; the Government of Nicaragua shall speak on 9 and 10 June. The Court shall issue its judgment on jurisdiction and admissibility in the fall of this year.

The Government of Honduras has designated Ambassador Mario Carias Zapata as the Agent to represent it in this trial, and Ambassador Jorge Ramón

Hernández Alcerro as the Co-Agent. Honduras also will be making use of the legal counsel of distinguished European jurists.

Esquipulas II and Judicial Recourse

By trying to place a manifestation of the regional crisis on a bilateral plane through judicial recourse, the Government of Nicaragua has tried to frustrate the diplomatic negotiating process which has not only involved the Central American countries, but also the member States of the Contadora and Support Groups, the United Nations, and the Organization of American States. In addition to these 13 States and the two organizations mentioned, the Esquipulas II diplomatic procedure has attained direct support from the 12 member countries of the European Community, and the possible participation of Spain, Canada and the Federal Republic of Germany, as well as the endorsement of the International Community.

In view of the incompatibility between the "Guatemala Procedure" and judicial recourse (which Nicaragua obstinately refuses to lay aside), the Central Americans' own efforts to keep peace in the region are in great danger of being frustrated.

The Government of Nicaragua is responsible for the consequences that may be dealt to the Esquipulas II Procedure, because Honduras is not the one maintaining the lawsuit.

Once the issue of the Court's jurisdiction is decided, Honduras will be free of undue pressure from Nicaragua. It will be able to continue contributing to the normalization of Central America by complying with the commitments undertaken in good faith in the special Esquipulas II procedure.

[Spanish text not reproduced]

3. *Letter from the Secretary General of the Organization of American States to the United States Secretary of State, George Shultz*

April 25, 1988.

Excellency:

As a member of the Verification Commission, having the responsibility of monitoring and verifying compliance with the accords set out in the March 23, 1988, Sapoa Agreement between the Constitutional Government of Nicaragua and the Nicaraguan Resistance, I wish to state the following regarding the deliveries of assistance by the Agency for International Development ("USAID") to members of the Nicaraguan Resistance during the week of April 17th last, under Joint Resolution H.J.Res.523:

The press reported that USAID has claimed that last week's deliveries were part of the 47.9 million non-lethal aid program authorized under Joint Resolution H.J.Res.523 of the United States Congress. Section 2 of that Resolution states:

"The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoá Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoá Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance."

Article 4 of the Sapoá Agreement addresses the issue of humanitarian aid for the members of the Nicaraguan Resistance.

"4. — Con el fin de garantizar los alimentos y suministros básicos para las fuerzas irregulares, se gestionará y aceptará exclusivamente ayuda humanitaria, de conformidad con el numeral 5 de los Acuerdos de Esquipulas II, la que será canalizada a través de organizaciones neutrales."
(Original version: Spanish.)

"4. — In order to guarantee food and basic supplies to the irregular forces, only humanitarian aid shall be sought and accepted, in conformity with Numeral 5 of the Esquipulas II Accords, and it shall be channeled through neutral organizations."
(Unofficial translation.)

Numeral 5 of the Esquipulas II Accord states:

"5) — Los Gobiernos de los cinco Estados Centroamericanos solicitarán a los Gobiernos de la región y a los Gobiernos extraregionales que, abierta o veladamente proporcionan ayuda militar, logística, financiera, propagandística, en efectivos humanos, armamentos, municiones y equipos a fuerzas irregulares, o movimientos insurreccionales, que cesen esa ayuda, como un elemento indispensable para lograr la paz estable y duradera en la región.

No queda comprendida en lo anterior la ayuda que se destine a repatriación o, en su defecto, reubicación y asistencia necesaria para la reintegración a la vida normal de aquellas personas que hayan pertenecido a dichos grupos o fuerzas."
(Original version: Spanish.)

"5) — The Governments of the five Central American States request that governments in the region and governments outside the region that have either overtly or covertly provided military, logistical, financial and propaganda assistance, troops, arms, munitions and equipment to the irregular forces or insurrectionists, cease that support, as an essential element for the achievement of a stable and lasting peace in the region.

Assistance which is for the repatriation or, if not applicable, the resettlement of those persons that were members of such groups or forces, and which is necessary for their reintegration into normal life, is not included in the above."
(Unofficial translation.)

There is an explicit linkage between the legislation adopted by the Congress of the United States of America, the Sapoá Agreement, the provisions of Esquipulas II and any subsequent agreement between the signatory parties of the Sapoá accord. Any action that deviates from those texts is inconsistent with the foregoing legal provisions and the conditions agreed to by the parties. Any change of these texts can only emanate from the authority that adopted or agreed to them.

I can well understand the human problem posed to the men of the irregular forces in the field during the peace process, and I am worried by such circumstance. Nonetheless, I cannot share the view that the action taken by USAID falls within the mandates which regulate this matter.

As a member of the Verification Commission, which is the only one created by the parties to the Sapoá Agreement, I cannot be accountable for monitoring actions that are not congruent with the objectives and reasons underlying its conception. Therefore I must express to you my deep concern about this whole situation.

(Signed) João CLEMENTE BAENA SOARES,
Secretary General,
Member of the Verification Commission
of the Sapoá Agreement.

90. THE REGISTRAR TO THE AGENT OF NICARAGUA

15 June 1988.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 14 June 1988, and received in the Registry yesterday evening, from the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, together with a copy of the lists of documents which have been referred to in oral argument by the representatives of Honduras. Copies of the documents will be supplied to you as soon as possible.

91. THE REGISTRAR TO THE AGENT OF NICARAGUA

16 June 1988.

Further to my letter of 15 June 1988, I now have the honour to transmit to Your Excellency herewith a set of copies of the documents, deposited in the Registry by the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* on 14 June 1988, to which reference was made in oral argument by the representatives of Honduras in that case.

92. THE REGISTRAR TO THE AGENT OF HONDURAS

16 June 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 15 June 1988, enclosing 25 copies of the documents to which reference was made during oral argument in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

It is noted that the documents numbered 2, 3, 8 and 9 on the list of documents referred to in your own address to the Court are in Spanish only. I should therefore be obliged if a text or translation of these in either of the official languages of the Court, could be supplied, also in 25 copies.

93. THE AGENT OF NICARAGUA TO THE REGISTRAR

17 June 1988.

I have the honour to refer to the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

On June 13 of this year, we submitted copies of documents to which the representatives of Nicaragua might have made reference in the event of a rejoinder. We omitted from the master list sent to the Court on that day, the document here included which consists of a draft resolution of the Security Council that was circulated by Honduras at the time of its request for a meeting of that entity of the United Nations. I respectfully request that it be included in the list of documents submitted by Nicaragua.

DRAFT

The Security Council,

Recalling its resolutions 530 (1983) of May 19, 1983, and 562 (1985) of May 10, 1985,

Taking into account the repeated support that the General Assembly has accorded to efforts by Central American countries to find, by means of negotiation, a solution to the crisis that affects that region, through its resolutions 38/10 of November 11, 1983, 39/4 of October 26, 1984, and 41/37 of November 18, 1986,

Recalling in particular, resolution 42/1 of October 7, 1987, of the General Assembly that expresses its firm backing of the Accord "Procedure for the Establishment of a Firm and Lasting Peace in Central America" and calls on the Central American Presidents to continue in their efforts to reach peace in the region,

Convinced that the adoption of the Esquipulas Accord by the Central American Presidents is both an expression of the political will that inspires them to resolve their differences by means of dialogue and negotiation, and, in virtue of the advances achieved in the peace process, the best option for achieving peace, democracy, security and stability in the Central American countries,

Conscious that the success of the Esquipulas Accord requires additional efforts by all Central American countries,

Convinced that it is correct that countries that are a part of the Esquipulas Procedure and the entire international community cooperate in eliminating obstacles that may block the successful culmination of the Central American peace process,

1. Expresses its full support for the Accord "Procedure for the Establishment of a Firm and Lasting Peace in Central America" signed by the Central American Presidents on August 7, 1987, in Guatemala City.
2. Urges the Republic of Nicaragua to definitively and unconditionally desist from other methods of peaceful resolution as long as the one in effect has not been exhausted.

3. Calls on the international community to offer its most firm support to said Accord.
4. Requests the Secretary-General to maintain the Security Council informed on compliance with this resolution.

[Spanish text not reproduced]

94. THE REGISTRAR TO THE AGENT OF HONDURAS

28 June 1988.

I have the honour to refer to my letter of 13 June 1988, with which I transmitted to Your Excellency (*inter alia*) a set of copies of documents deposited by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* to which, as the Agent explained in his letter of that date, counsel for Nicaragua might find it necessary to refer during the second round of oral argument.

Pursuant to Article 56, paragraph 1, of the Rules of Court, I requested the Agent of Nicaragua to supply further copies of these documents. When these were supplied, there was at the same time submitted to the Court a further document, namely a draft of a Security Council resolution (text in English and Spanish); I enclose a copy of the letter which the Agent of Nicaragua addressed to me in this respect on 17 June 1988.

In order to complete the communication of documents to Honduras in accordance with Article 56 of the Rules of Court, I have the honour to send Your Excellency herewith also a copy of the draft resolution enclosed with that letter.

95. THE REGISTRAR TO THE AGENT OF NICARAGUA

7 July 1988.

I have the honour to refer to the questions put to the Parties by Members of the Court during the oral hearings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and to recall that at the close of the hearings held on 15 June 1988, Your Excellency stated that the replies of the Government of Nicaragua to these questions would be given in writing (*supra*, p. 213).

Article 61 of the Rules of Court provides that when questions are put to the agents, counsel or advocates of the parties during the hearings, they "may either answer immediately or within a time-limit fixed by the President". No such time-limit was set during the hearings; in view however of the fact that the Court has now to deliberate on the case in accordance with Article 54, paragraph 2, of the Statute, and therefore requires to be fully informed, the Vice-President of the Court, Acting President, has decided to fix 15 July 1988 as the time-limit for replies to the questions put during the hearings.

A similar letter is today being addressed to the Agent of Honduras.

96. THE REGISTRAR TO THE AGENT OF HONDURAS

7 July 1988.

I have the honour to refer to the questions put to the Parties by Members of the Court during the oral hearings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and to recall that at the hearing held on 13 June 1988, Your Excellency stated that written replies of the Government of Honduras to these questions would be deposited with the Registrar (*supra*, p. 148).

Article 61 of the Rules of Court provides that when questions are put to the agents, counsel or advocates of the parties during the hearings, they "may either answer immediately or within a time-limit fixed by the President". No such time-limit was set during the hearings; in view however of the fact that the Court has now to deliberate on the case in accordance with Article 54, paragraph 2, of the Statute, and therefore requires to be fully informed, the Vice-President of the Court, Acting President, has decided to fix 15 July 1988 as the time-limit for replies to the questions put during the hearings.

A similar letter is today being addressed to the Agent of Nicaragua.

97. THE AGENT OF NICARAGUA TO THE REGISTRAR

8 July 1988.

I have the honour to refer to the questions put to the parties by Members of the Court during the oral hearings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

The answers to the questions in reference are included herein. Please note, that the answer to Judge Guillaume's questions includes as an annex a Statement made by the Contadora Group and the Support Group on 27 June 1988.

I would like to bring to the Court's attention the fact that, at present, Prof. Chayes, Counsel for Nicaragua is in the hospital undergoing surgery. Prof. Chayes had been charged in particular with investigating fully the answers to the first questions posed by Judges Guillaume and Shahabuddeen. Therefore, at present, the answers to those questions do not have the full benefit of Prof. Chayes' investigations. If Prof. Chayes has any further comments to the questions after his recovery, I will forward them to the Court if they are made within a time-limit acceptable to the Court.

QUESTION POSED BY JUDGE NI¹

Distinguished Agents and counsel and advocates, I think it might be a convenient time to address a question to both Parties. The point on which I wish to have a clarification is whether any step or steps have been taken as a matter of recorded fact within the framework of the Contadora Process towards the solution of the border disputes between Honduras and Nicaragua. This is the question. I am not referring to the efforts for the solution of the matters of general

¹ See also p. 70, *supra*. [Note by the Registry.]

interest to the States of the American continent. I do not expect an instant reply or replies so that there will be time for reflection.

REPLY

The answer to this question is very firmly in the negative. The Group of Contadora has not played a role in the solution of the bilateral disputes between Nicaragua and Honduras.

In a general manner, it is convenient to point out that the Declaration of Contadora of January 1983 that originated this process, does not include among its aims the solution of bilateral disputes (see Annex 9 of the Honduran Memorial).

Furthermore, as was clearly evinced in the oral hearings, Honduras has never accepted the creation of mechanisms that could have permitted the reaching of solutions to the bilateral problems.

As a point of comparison, we note that in the case of the bilateral relations between Nicaragua and Costa Rica — mentioned by the Honduran Government at the oral hearings — the situation was different. A solution to the bilateral problems was sought by different means including, at one point, the friendly co-operation of the French Government in 1984.

QUESTIONS POSED BY JUDGE SHAHABUDDEN¹

First Question:

I gather that neither side adopts what I may refer to as a third view, to the effect that Article XXXI of the Pact by itself constitutes a self-sufficient declaration by each member of the Pact of acceptance of the Court's compulsory jurisdiction under Article 36, paragraph 2, of the Statute. According to Nicaragua, Article XXXI of the Pact is indeed a self-sufficient acceptance of the Court's jurisdiction, but this is a conventional jurisdiction under Article 36, paragraph 1, of the Statute, and not a compulsory jurisdiction under Article 36, paragraph 2.

By contrast, according to Honduras, Article XXXI of the Pact does look to Article 36, paragraph 2, of the Statute, but separate declarations have to be made under the latter to complete a grant of jurisdiction.

However, from the material presented by the Parties, it appears that there is a body of opinion supportive of what I have referred to as *the third view*. See in particular the Honduran Memorial (*I*) at pages 14, 49, 66, 68, 69 and 75.

My question then is this, can the Court competently consider this third view? And, if it can, and if it accepts this third view, how, if at all, would this affect the arguments?

Second Question:

Are there any ratifying members of the Pact who have not had any declarations in force under Article 36, paragraph 2, of the Statute? I really do not know myself the answer to that, but, if it is so, has this situation ever been criticized by other members, or by qualified commentators, as constituting a breach of an understanding given in Article XXXI of the Pact to deposit declarations under Article 36, paragraph 2, of the Statute?

¹ See also pp. 70-71, *supra*. [Note by the Registry.]

REPLY TO THE TWO QUESTIONS QUOTED ABOVE

Nicaragua considers that these questions were answered in the public sittings held on June 9 and 10 of 1988 and in particular that of Wednesday 15 June 1988 in the intervention of Professor Chayes (*supra*, pp. 205-212).

RÉPONSES AUX AUTRES QUESTIONS POSÉES PAR LE JUGE SHAHABUDDÉEN¹
LORS DE L'AUDIENCE DU MARDI 7 JUIN 1988

Troisième question:

Même s'il peut être établi qu'un Etat entendait en fait que sa déclaration soit irrévocable, peut-il encore y mettre fin unilatéralement dans l'exercice d'un pouvoir souverain absolu de définir les termes sur la base desquels il admet de se soumettre à la juridiction de la Cour ?

RÉPONSE

La République du Nicaragua est passionnément attachée au principe de la souveraineté de l'Etat, dont la violation par le Honduras constitue précisément l'un des fondements de la requête. Toutefois, loin d'être incompatible avec celui du respect dû aux obligations internationales, le principe de la souveraineté l'implique au contraire, et il est significatif que la résolution 2625 (XXV) de l'Assemblée générale des Nations Unies, portant déclaration relative aux principes du droit international touchant les relations amicales et la coopération entre Etats, conformément à la Charte des Nations Unies, fasse du devoir qu'a chaque Etat «de s'acquitter pleinement et de bonne foi de ses obligations internationales» l'un des «éléments» du principe de l'égalité souveraine des Etats.

En application de ce principe, la Cour permanente de Justice internationale s'est refusée

«à voir dans la conclusion d'un traité quelconque, par lequel un Etat s'engage à faire ou à ne pas faire quelque chose, un abandon de sa souveraineté. Sans doute, toute convention engendrant une obligation de ce genre apporte une restriction à l'exercice des droits souverains de l'Etat, en ce sens qu'elle imprime à cet exercice une direction déterminée. Mais la faculté de contracter des engagements internationaux est précisément un attribut de la souveraineté de l'Etat.» (*Vapeur Wimbledon, arrêts, C.P.J.I. série A n° 1, p. 25*).

C'est que, comme l'a rappelé Anzilotti,

«les limitations de la liberté d'un Etat, qu'elles dérivent du droit international commun, ou d'engagements contractés, n'affectent, aucunement, en tant que telles, son indépendance.» (*Régime douanier entre l'Allemagne et l'Autriche, opinion individuelle, 1931, C.P.J.I. série I A/B n° 41, p. 58*).

Ce qui vaut pour les traités vaut tout autant pour les déclarations facultatives faites en application de l'article 36, paragraphe 2, du Statut. Quelle que puisse être la nature exacte de ces instruments, il ne fait aucun doute qu'elles constituent des engagements internationaux et créent des obligations juridiques à la charge de leurs auteurs, «l'Etat intéressé étant désormais tenu en droit de suivre une ligne de conduite conforme à sa déclaration» (*Essais*

¹ Voir aussi ci-dessus p. 71. [*Note du Greffe.*]

nucléaires, C.I.J. Recueil 1974, p. 267 et 472), sans que cela soit, d'une manière quelconque, incompatible avec sa souveraineté.

La Cour elle-même a du reste considéré, de la manière la plus claire, que:

«Les déclarations d'acceptation de la juridiction obligatoire de la Cour sont des engagements facultatifs, de caractère unilatéral, que les Etats ont toute liberté de souscrire ou de ne pas souscrire. L'Etat est libre en outre soit de faire une déclaration sans condition et sans limite de durée, soit de l'assortir de conditions ou de réserves. Il peut en particulier en limiter l'effet aux différends survenant après une certaine date, ou spécifier la durée pour laquelle la déclaration elle-même reste en vigueur ou le préavis qu'il faudra éventuellement donner pour y mettre fin. Le caractère unilatéral des déclarations n'implique pourtant pas que l'Etat déclarant soit libre de modifier à son gré l'étendue et la teneur de ses engagements solennels.» (*Activités militaires et paramilitaires au Nicaragua et contre celui-ci (Nicaragua c. Etats-Unis d'Amérique)*, compétence et recevabilité, arrêt, C.I.J. Recueil 1984, p. 418).

Dès lors, c'est en vertu de son pouvoir souverain que l'Etat s'engage mais, ayant ainsi librement accepté certaines obligations à l'égard d'autres Etats, il ne peut y mettre fin unilatéralement à son gré; il ne lui est possible de s'en dégager que de deux manières: soit en application des limites dont il a lui-même assorti sa déclaration soit en vertu des règles du droit international général applicables.

Quatrième question:

Il me semble ressortir du contre-mémoire de Nicaragua, à la page 33, que, dans sa protestation de 1974, le Honduras avait dit que la notification de dénonciations immédiate d'El Salvador «était totalement dénuée de validité». En employant ces termes, le Honduras adoptait-il une position au sujet de la question de savoir si la notification de dénonciation d'El Salvador était ou non totalement contraire au droit et, en conséquence, si cette notification pourrait ou non devenir effective après un certain délai?

RÉPONSE

Le texte anglais intégral de la lettre du ministre des affaires étrangères du Honduras en date du 21 juin 1974 figure dans Shabtai Rosenne, *Documents on the International Court of Justice* (Alphen aan den Rijn, 1979, pp. 361-366).

Il résulte clairement des termes mêmes de cette lettre que le Honduras estime, pour des raisons générales de principe, qu'il n'est possible ni de dénoncer ni de modifier une déclaration facultative d'acceptation de la juridiction obligatoire de la Cour faite sans limitation de durée. Cela résulte en particulier des passages suivants, reproduits également dans le contre-mémoire du Nicaragua (I, p. 303):

“Leading authorities on international law take the position that a declaration not containing a time-limit cannot be denounced, modified or broadened unless the right to do so is expressly reserved in the original declaration and that, accordingly, new reservations cannot be made unless this requirement has been fulfilled.

To say otherwise would mean accepting the notion that a state can unilaterally terminate its obligation to submit to the jurisdiction of the Court whenever that suits its interests, thus denying other states the right

to summon it before the Court to seek a settlement of disputes to which they are parties. This could well undermine the universally applicable principle of respect for treaties and for the principles of international law . . .

For the reasons stated above, my Government challenges the declaration by which El Salvador seeks to revoke and replace its original declaration accepting the jurisdiction of the Court since the new declaration is improperly made, hence completely lacking in validity, and would set a precedent prejudicial to the stability of the legal institutions established by the international community and to the effective exercise of the right of States to settle their disputes under the guarantee provided by the highest judicial body so far conceived by man."

Et le Honduras d'ajouter que l'invocation d'une modification du droit constitutionnel de l'Etat auteur de la déclaration pour justifier une modification de celle-ci

"is contrary to the universally accepted principle that the sacred treaty obligation will continue to be the basic rule of international law".

Les termes particulièrement catégoriques ou absolus utilisés par le Honduras montrent bien que cet Etat considère que, non seulement la notification de dénonciation d'El Salvador, mais encore toute dénonciation ou modification d'une déclaration faite sans limitations de durée, est totalement contraire au droit et ne peut devenir effective même après un certain délai.

Comme le Nicaragua l'a montré dans son contre-mémoire (I, pp. 297-304), cette position n'est pas dénuée de fondement. Toutefois, il n'est sans doute pas utile de prendre une position tranchée sur ce point en l'espèce; il suffit bien plutôt de constater que, de toutes manières, la «nouvelle déclaration» du Honduras n'était pas opposable au Nicaragua au moment où celui-ci a introduit sa requête.

La position de principe très ferme adoptée en 1974 par le Honduras n'est pas sans pertinence en la présente espèce: ce pays ne peut faire aujourd'hui ce qu'il contestait catégoriquement naguère. Comme la Cour l'a rappelé dans un *dictum* invoqué à plusieurs reprises en plaidoirie par le Honduras:

«Il est reconnu que des déclarations revêtant la forme d'actes unilatéraux et concernant des situations de droit ou de fait peuvent avoir pour effet de créer des obligations juridiques. ... Quand l'Etat auteur de la déclaration entend être lié conformément à ses termes, cette intention confère à sa prise de position le caractère d'un engagement juridique, l'Etat intéressé étant désormais tenu en droit de suivre une ligne de conduite conforme à sa déclaration.» (*Essais nucléaires (Australie c. France)*, arrêt, C.I.J. Recueil 1974, p. 267).

Quel que puisse être le bien-fondé de l'interprétation donnée par le Honduras au regard des règles générales applicables, celui-ci est «désormais tenu en droit de suivre une ligne de conduite conforme à sa déclaration».

Cinquième question :

Je crois savoir que le Honduras prétend qu'une relation consensuelle ne prend naissance en vertu de l'article 36, paragraphe 2, du Statut qu'à la date du dépôt d'une requête. L'opinion selon laquelle une requête est introduite sur la base d'une relation consensuelle est-elle fondée? Si oui, la requête peut-elle faire naître la relation et reposer sur elle?

RÉPONSE

De l'avis de la République du Nicaragua, il n'est pas exact qu'une relation consensuelle ne prenne naissance en vertu de l'article 36, paragraphe 2, du Statut qu'à la date du dépôt de la requête. C'est au jour de la notification elle-même que cette relation s'établit entre l'Etat déclarant et les autres parties au système de la clause facultative:

«C'est en effet ce jour-là que le lien consensuel qui constitue la base de la disposition facultative prend naissance entre les Etats intéressés.»
(*Droit de passage sur territoire indien, exceptions préliminaires, arrêt, C.I.J. Recueil 1957, p. 146.*)

Dès lors, il apparaît que c'est bien sur la base d'une relation consensuelle qu'une requête est introduite, mais cette relation est fondée non par la requête elle-même, mais bien par la déclaration, qui «contractualise» le système de la clause facultative entre les Etats parties.

Il serait d'ailleurs totalement illogique d'admettre que, comme le prétend le Honduras, la requête fait naître cette relation consensuelle et, en même temps, repose sur celle-ci: elle ne peut en être à fois son propre fondement et sa propre conséquence.

QUESTIONS POSED BY JUDGE GUILLAUME¹I. *Article XXXI of the Pact of Bogotá*

First Question: At the signature, the ratification or the coming into force of the Pact of Bogotá, or at the time of accession to the Pact — did the Contracting States which had previously made the declaration recognizing the jurisdiction of the Court as compulsory under Article 36 of the Statute of the Court (with or without reservations), notify the Pan-American Union or the Organization of American States of that declaration? And, at the same time of signature, ratification or coming into force, or at the same of accession, did the Contracting States which had not previously made the declaration recognizing the jurisdiction of the Court as compulsory under Article 36 of the Statute of the Court, make a special declaration in pursuance of Article XXXI of the Pact of Bogotá?

REPLY

The answer is negative for both parts of the question.

Second Question: When certain States parties to the Pact of Bogotá withdrew their acceptance of the declaration recognizing the jurisdiction of the Court as compulsory under Article 36 of the Statute, did they notify the Organization of American States of that withdrawal? Did they state clearly at the time what their situation would be in relation to Article XXXI?

¹ The answer to this set of questions was consulted by the Nicaraguan Mission before the Organization of American States with Dr. Domingo Acevedo, the chief legal adviser of the Under Secretary of the OAS for juridical matters.

See also p. 137, *supra*. [Note by the Registry.]

REPLY

The answer to this question is also negative. The only examples were those considered by Nicaragua in the public sitting held 15 June 1988 (*supra*, pp. 205-212). There have been no notifications of withdrawal of acceptance. The only country to notify a "modification" of its declaration has been Honduras. No mention has been made as to their relation to Article XXXI.

Third Question: Was El Salvador's withdrawal from the Pact of Bogotá accompanied by a declaration concerning Article XXXI?

REPLY

This question was addressed at the public sitting held 15 June 1988 (*supra*, pp. 205-212).

Fourth Question: Were the notifications effected by the States for these various purposes communicated in turn by the Organization of American States to the States parties to the Pact of Bogotá? Did they provoke reactions such as acknowledgements, acquiescences or protests?

REPLY

The answer to the first part of the question is no, because no such notifications were effected by the States, with the exception of the "modification" notified by Honduras and the denunciation of the Pact made by El Salvador.

The answer to the second part of the question is that only Nicaragua has entered a protest for Honduras's attempt to enter reservations to the Pact, 40 years after it was ratified. This point was addressed also in the public sitting on 9 June 1988 (*supra*, p. 88).

2. Article XXXII of the Pact of Bogotá

Question: The final sentence of Article XXXII reads: "The Court shall have compulsory jurisdiction in accordance with Article 36, paragraph 1, of the said Statute." I would like to know how the Parties interpret this text, bearing in mind at the same time how it is drafted in French and in the other languages.

REPLY

The reply to this point was made in the public sitting held on 15 June 1988 (*supra*, pp. 209-212).

3. Contadora and Esquipulas II Process

First Question: Has the Contadora process been definitely abandoned? Is it merely suspended? Is it continuing in any form?

REPLY

The Contadora process has not been abandoned or suspended at any moment. When the Esquipulas II Agreement was signed by the Central American nations, the Group of Contadora together with the Group of Support of Contadora remained in existence and its relations with the Central American peace procedures was recognized in the same Esquipulas II Agreement by giving the Contadora Group specific responsibilities.

The permanence of the Contadora process has been ratified in the meeting held in Tlateloco, Mexico, by the countries members of the Contadora Group and the Group of Support. When this meeting ended on 27 June 1988, the members made public a statement which is attached to this answer.

On the other hand, it must be pointed out that the faculties of mediation of Contadora in the region rest on the political will of the five Central American nations. When this will is lacking, even if it be in one of the countries, the work of Contadora is hindered — if not frustrated — as was the case cited by Nicaragua at the public sitting held on 9 June 1988 (*supra*, pp. 73-74) and in the public hearing on 15 June 1988 (*supra*, pp. 177-178).

Second Question: What role did the Contadora Group play and what role does it still play in the implementation of the Guatemala Declaration (Esquipulas II)?

REPLY

In the Guatemala Declaration, the Group of Contadora was given two main functions:

1. The first one is contained in point 7 of the Guatemala Agreement and it refers to the continuation of "negotiations in matters of security, verification, control and limitation of armaments".

2. The second role that the Guatemala Agreement gave to Contadora is in point 10 of the Accord in which the Commission of Verification was created. In accordance with the Agreement, this Commission would be composed of the Contadora Group and the Support Group together with the Secretary-General of the United Nations and the Secretary General of the OAS. The way this second role of Contadora was frustrated by Honduras was recounted at the public sittings (*supra*, pp. 73-74 and 177-178).

Finally, it must be said that the recent Statement of the Contadora Group and the Contadora Support Group, annexed hereto, indicates precisely what the Group itself thinks its role to be¹.

Third Question: According to the 7th paragraph of the declaration adopted on 16 January 1988 by the five Presidents of Central America at San José an

"Executive Committee, made up of the Ministers of External Relations of the Central American States, is to exercise the principal function of verification, control and monitoring of all undertakings contained in the Guatemala Procedure and in the present declaration".

The San José declaration adds that to that effect, it will promote the co-operation of certain outside bodies. Lastly, the same Committee will be responsible for examining the general report of the International Verification and Monitoring Commission which was submitted at San José.

I would like to know how this text has been implemented, what outside co-operation has been sought and obtained, and, more generally, what progress has the Executive Committee made in its work?

¹ In passing, notice should be taken that this statement of Contadora — very complete in its subject-matter — does not mention or even hint at any recommendation on the present case. It must be recalled that Honduras has suggested that the withdrawal of these procedures was part of the Esquipulas Agreement. Also, and quite obviously, Contadora does not consider these procedures incompatible with its continued existence and role.

REPLY

During the Fifth Meeting of the Executive Committee, held in Guatemala on 7 April 1988, it was agreed that a formal petition should be addressed to the Secretary-General of the United Nations in order to request the "collaboration of an auxiliary technical group comprised of specialized personnel from the Governments of Canada, Spain and the Federal Republic of Germany". This group would integrate the mechanism of verification, control and follow up. This formal petition was to be made in writing by means of a letter signed by the five Ministers of Foreign Affairs of Central America.

Nonetheless, Honduras refused to sign that letter in both the meeting in Guatemala and the following meeting held in Honduras on 22 June 1988. The result has been that up to the moment no formal request has been made in order to obtain the external co-operation for the Esquipulas procedure.

The Honduran refusal to sign the request to the Secretary-General of the United Nations — on both occasions — has been attempted to be justified by saying that if Nicaragua did not withdraw the present case against Honduras before this Court, it was not possible to proceed. This position was upheld by the Minister of Foreign Affairs of Honduras in the meeting held in Tegucigalpa, notwithstanding the fact that the President of Honduras himself, at a meeting with the Executive Committee, said that the case before the Court was a bilateral matter that was not related to the Esquipulas procedure and that he was instructing his Minister of Foreign Affairs — this was said in front of the other Ministers of Foreign Affairs of Central America — to disassociate the case before the Court from the process of negotiation. The President of Honduras also said that the document he had signed with the President of Nicaragua agreeing to a postponement of the oral hearings, had no bearing with Esquipulas II.

In any case Honduras continued to refuse to sign any petition to the Secretary-General of the United Nations. Therefore, up to the moment, the Executive Committee is *de facto* not in operation.

STATEMENT BY THE CONTADORA GROUP
AND CONTADORA SUPPORT GROUP

Tlatelolco, d.f.,
Mexico.

27 June 1988.

(Translation)

The foreign ministers of Colombia, Mexico, Panama and Venezuela who constitute the *Contadora Group* — and the foreign ministers of Argentina, Peru, Uruguay and Brazil who compose the *Contadora Support Group* — meeting in Mexico City today, expressed concern regarding the impasse in the peace process and sharpened tensions in Central America. They pointed out that this concern arises from fraternal solidarity with the Central American

peoples, as well as the possible adverse effects on legitimate national interests of their countries.

Esquipulas II opened an era of significant advances in the Central American crisis. Negative signs now surfacing should not be allowed to obscure that fact. The reality is that the past year, since the peace accord was signed by the Central American presidents, has proven that negotiation and not force or threat of force is the only road to peace.

The ministers stressed the importance of establishing a mechanism to verify compliance with security accords, in keeping with agreements made in the *Vth Meeting of the Executive Commission held in Guatemala City on 7 April 1988*. There, the Central American foreign ministers stated their desire to request assistance from three extra-regional governments to carry out the task of verification, with support from the United Nations and other specialized organizations.

The freezing of talks on implementing the Sapoá Accords has added a new element of tension not only for Nicaragua, but for the entire region.

In general, the implementation of one of the most important commitments of Esquipulas II, the national political dialogue for reconciliation and peace, was interrupted in the majority of countries shortly after its start, and there are no clear indications of quick renewal.

The foreign ministers repeated the urgency of implementing the agreement contained in numeral (7) of the Guatemala Procedure. This was an agreement to continue negotiation of security issues pending from the peace proposal.

On other matters, political instability and a sharp economic crisis has aggravated the already dramatic situation of thousands of Central American refugees and persons displaced by the war. Meanwhile, actions and mechanisms established to protect them have had little effect.

In this situation, governments that are members of the Contadora Group and Contadora Support Group, urgently call on the governments of Central American countries to establish a political dialogue for peace, suspend all form of support to irregular forces, not allow use of their territory for threats or attacks against neighbouring countries, and form appropriate verification mechanisms in keeping with the accords signed on 7 August.

In addition, the foreign ministers repeated their call to governments with an interest in or ties to the region to contribute to the pressing cause of peace. Today, it is obvious that the use of force, support for confrontation, a climate of threats of military intervention in the region, and the arms race only hamper the logic of negotiation and the effort for peace.

They stated their willingness to broaden, as much as possible, co-operation of each one of their countries with Central America. They also stated their desire to co-ordinate action within the framework of the special plan for economic co-operation with the region, recently approved by the General Assembly of the United Nations. The ministers said they would support projects carried out by the Action Committee in Support of Economic and Social Development of Central America (CADESCA), a Committee of the Latin American Economic System (SELA). They renewed their invitation to the international community to deepen its assistance in Central American economic and social development.

Finally, they reaffirmed their ongoing willingness to support and contribute to the Central American peace process and they called on the five Governments of the region to give peace efforts undertaken in Esquipulas II another push.

98. L'AGENT DU HONDURAS AU GREFFIER

La Haye, le 11 juillet 1988.

J'ai l'honneur de vous accuser réception de votre aimable note 79764 en date du 7 juillet 1988 relative au délai fixé par le Vice-Président de la Cour et président en exercice pour les réponses aux questions posées par MM. les juges lors des plaidoiries dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras) (compétence et recevabilité)*.

Étant donné que la traduction en français des documents qui accompagnent les réponses est effectuée en France et que les journées des 14 et 15 sont fériées dans ce pays, je demande respectueusement de bien vouloir rapporter le délai pour la présentation des réponses au mercredi 20 juillet.

99. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

11 July 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 11 July 1988 requesting an extension of time-limit to 20 July 1988 for the provision of written replies to judges' questions in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* (Jurisdiction and Admissibility). A copy of that letter has been transmitted to the Agent of Nicaragua whose views were sought by telephone. It has not yet been possible, however, to make contact with His Excellency.

That being so, and bearing in mind the proximity of the original time-limit, I am to inform you that the Vice-President of the Court accedes to your request and extends the time-limits for both parties to 20 July 1988. The Agent of Nicaragua will be informed accordingly.

100. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

11 July 1988.

I have the honour to send Your Excellency herewith a letter of today's date which I have received from the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and in which His Excellency requests an extension of time-limit for the provision of replies to questions put by judges at the hearing on the questions of jurisdiction and admissibility.

On receipt of the enclosed letter I immediately sought the views of your Government but I was unfortunately unable to make appropriate contact.

That being so, and bearing in mind the proximity of the original time-limit, the Vice-President of the Court, Acting President, has acceded to the Honduran request and extended the time-limit for both Parties to 20 July 1988.

101. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

14 July 1988.

I acknowledge receipt of the letter dated 8 July 1988 by which Your Excellency has transmitted the written answers of your Government to questions put by Members of the Court at the hearing on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

A copy of the letter and its attachments will be duly communicated to the Agent of Honduras.

I note with sympathy the difficulty encountered by your Government in preparing some of its replies owing to the situation of Professor Chayes, whose recovery, I trust, will be rapid and complete. Allow me, meanwhile, to point out that the opportunity which will be afforded your Government in accordance with Article 72 of the Rules of Court will enable it further to distinguish its views.

I enclose a copy of a letter which I am sending at the same time to the Agent of Honduras.

102. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

14 July 1988.

I have the honour to send Your Excellency herewith a copy of a letter dated 8 July 1988 which I received yesterday afternoon from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*; the letter was accompanied by the written answers to which it refers, and of which you will of course receive a copy as soon as I am in a position to provide the Agent of Nicaragua with the text of your Government's replies.

I enclose further a copy of a letter which I am sending at the same time to the Agent of Nicaragua.

103. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

14 July 1988.

I acknowledge receipt of the letter of 8 July 1988 whereby Your Excellency has advised the Registry of your absence from The Hague for a period of about one month and of the possibility of your being contacted through your Embassy staff.

I wish further to advert to your other letter of the same date, by which you transmitted the written answers of your Government to questions put by Members of the Court at the hearing on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. An acknowledgment of this letter has already been addressed to you. Perusal of the written answers supplied reveals, however, that they do not include any formal reply to the question put by the President of the Court, in his capacity as an individual judge, at the hearing of 13 June 1988 (*supra*, p. 140). I take it that the Government of Nicaragua has nothing to add to the

reply given by Your Excellency at the same sitting (*supra*, p. 141), even though it was then described as "a partial answer", and it was further stated at the sitting of 14 June 1988 that the questions put would be answered in writing.

104. THE AGENT OF HONDURAS TO THE REGISTRAR

The Hague, 19 July 1988.

I have the honour to submit you herewith, in the delay fixed by the Court, the answers of the Republic of Honduras to the questions posed by Judges Ni, Shahabuddeen, and Guillaume during the oral hearing in the case concerning the *Border and Transborder Armed Actions (Nicaragua v. Honduras) (Jurisdiction and Admissibility)*. We are presenting 25 copies, of which two originals signed by me. You will also find enclosed a list of the documents annexed, relating to Judge Guillaume's first and third question.

ANSWERS OF HONDURAS TO QUESTIONS POSED BY JUDGES, 18 JULY 1988

During the oral pleadings in the case concerning the *Border and Transborder Armed Actions (Nicaragua v. Honduras) (Jurisdiction and Admissibility)* three distinguished judges posed questions to the Governments of Honduras and Nicaragua, that is to say on 7 June 1988, Judge Ni and Judge Shahabuddeen (*supra*, pp. 70 ff.) and on 10 June 1988 Judge Guillaume (*supra*, pp. 137 ff.).

The present document contains the answer of the Government of Honduras to those questions.

ANSWER TO QUESTION POSED BY JUDGE NI¹

Judge Ni's question is as follows:

"Whether any step or steps have been taken as a matter of recorded fact within the framework of the Contadora Process towards the solution of the border disputes between Honduras and Nicaragua. This is the question."

Honduras' answer is yes, either if one takes special regard to the alleged facts put forward by Nicaragua in its Application, or if one considers the differences between Nicaragua and Honduras as being part, by the express consent of both countries, of a wider set of controversies between the Central American governments that it has been agreed should be resolved through the Contadora and Esquipulas processes.

Several steps have evidently been taken in these processes to resolve the claims of Honduras and Nicaragua against each other, and this assertion is supported by the following documents:

1. In the *Informative Bulletin of the Contadora Group* of 21 April 1983, — Annex 11, Memorial of Honduras —, that is after the initiation of consultations between the Contadora Group and the Central American governments,

¹ See also p. 70, *supra*. [Note by the Registry.]

but before the formal acceptance of this multilateral procedure by Nicaragua, one can read in the fifth paragraph the following:

“Among the matters which in the opinion of the Ministers of Contadora require principal attention there must be mentioned: . . . the arms traffic, the presence of military advisers and other forms of foreign military assistance, *the actions intended to destabilize the internal order of other States, the threats and verbal attacks, the belligerent incidents, and the border tensions . . .*”. (Emphasis added.)

And in the seventh paragraph, the following:

“*an agreement in principle was obtained on the procedures of consultation and negotiation which will have to be followed in the near future in such a way that they will take into account the varying nature of the subjects, whether they be of regional scope or of a bilateral character . . .*”. (Emphasis added.)

2. In the “Cancún Declaration on peace in Central America” of 17 July 1983 — Annex 13 of the Memorial of Honduras — paragraph 10; the Presidents of Colombia, Mexico, Panama and Venezuela

“agreed on the general lines of a programme to be proposed to the countries of Central America which requires, in addition to strict compliance with the essential principles governing international relations, the conclusions of agreements and political commitments that will lead, region-wide, to effective control of the arms race, the elimination of foreign advisers, the creation of demilitarized zones, *the prohibition of the use of the territory of some States for the development of political or military destabilization actions in other States, the eradication of transit of and traffic in arms as well as the prohibition of other forms of aggression or interference in the internal affairs of any country in the area*”. (Emphasis added.)

3. Nicaragua, in the speech about the Contadora negotiations made by Commander Daniel Ortega, on 19 July 1983, — Annex 14 of the Memorial of Honduras — declares:

“The Government of Nicaragua . . . accept that the beginning of the *negotiation* process promoted by the Contadora Group be of a multilateral character . . . the Sandinista National Liberation Front proposes that discussions begin immediately on the following basic points:

- (1) *An Agreement to put an end to any belligerent situation prevailing*, by means of the immediate signature of a Non-Aggression pact between Nicaragua and Honduras.
- (2) *Absolute cessation of any supply of weapons* by any country *to the forces in conflict in El Salvador* so that the nation can solve its problems without external interference.
- (3) *Absolute cessation of any military support in the form of supply of weapons, training, utilization of territory to launch attacks or any other form of aggression by the forces opposing any of the Central American Governments.*

. . .” (Emphasis added.)

4. In the Press Release of Contadora and Central America of 30 July 1983 — Annex 15 of the Memorial of Honduras —, when the negotiations

started and the Ministers considered that it was necessary to establish the basis for agreements, at the end of paragraph 3 we can read the following:

“the Ministers of Costa Rica, El Salvador, Guatemala and Honduras on the one hand, and the Minister of Nicaragua on the other hand, *formulated concrete contributions* on the criteria and new points of the countries with respect to the characteristics, contents and scope which such agreements should have . . .”. (Emphasis added.)

5. In the “Document of Objectives” agreed by the five Central American Governments on 9 September 1983 within the Contadora negotiations — Annex 16 of the Memorial of Honduras — we find, among others, these objectives:

“To establish internal control machinery to prevent the traffic in arms from the territory of any country in the region to the territory of another;

To eliminate the traffic in arms, whether within the region or from outside it, intended for persons, organizations or groups seeking to destabilize the Governments of Central American countries and to refuse to provide them with or permit them to receive military or logistical support;

To refrain from inciting or supporting acts of terrorism, subversion or sabotage in the countries in the area;

To establish and co-ordinate direct communication systems with a view to preventing or, where appropriate, settling incidents between States of the region.”

6. In the “Measure to fulfil the commitments entered into in the Document of Objectives” of 8 January 1984 — Annex 17 of the Memorial of Honduras — different specific measures were adopted and a machinery established in paragraph II to monitor the progress made in carrying out these measures.

In paragraph III the Ministers agreed:

“To establish in the framework of the Contadora Group, three working Commissions for the purpose of concerning security and political matters, as well as economic and social questions and of making proposals for verifying and supervising the implementation of the measures agreed upon.”

The Working Commission on Security Matters who held continuous meetings from January to April 1984, had as representatives from Honduras:

Colonel Omar Zelaya, Director of the Superior School for the General Staff.
Colonel Wilfredo Sanchez, then member of the General Staff; in 1988 Minister of Defence.

Ambassador Mario Carías, Adviser at the Ministry of Foreign Relations.

The representatives from Nicaragua were:

Commander Julio Ramos, Head of Military Intelligence.

Captain Ricardo Wheelock, Adviser to the Minister of Defence.

Mr. Augusto Zamora, Legal Adviser to the Ministry of Foreign Relations.

The other participants had representations of a similar level. The negotiations were clearly engaged by officials with responsibilities in the fields of defence and foreign affairs.

7. In the Press Release of Contadora and Central America of 1 May 1984 — Annex 18 of the Memorial of Honduras — after taking note with satisfaction of

the work done, the nine Ministers, after registering other undertakings, said in paragraph 9:

“In addition (in the Commission of Security) there was consensus on principles relating to prevention of the use of territory by irregular forces for actions against neighbouring countries and the prevention of destabilization operations, sabotage and terrorism. *The Commission considered specific options for the prevention and settlement of border incidents*”. (Emphasis added.)

8. In June 1984, September 1984, September 1985 and June 1986, the Contadora Group put forward successive drafts of the “Contadora Act for Peace and Co-operation in Central America”. These drafts have been continuously improved through negotiations between the Central American representatives and Plenipotentiaries, and the mediation efforts of the Contadora delegates.

The “Commitments” (Compromisos) on different subject-matters are purported to be political undertakings that will be part of a legal comprehensive instrument; but they also already demonstrate agreements by the Central American governments on the means to solving the difficult problems under consideration.

(a) In the Draft Act of September 1984, — Annex 24 of the Counter-Memorial of Nicaragua — the Commitments on Security Matters are contained in eight sections of Chapter III, paragraphs 16 to 43; and there are Commitments in regard to execution and follow-up through a “Commission for Verification and Control in Security Matters”, Part II, 2.

(b) In the Draft Act of September 1985 — distributed as Annex V of the United Nations document A/40/737-S/17549 of 9 October 1985 — the Commitments on Security Matters, always in Chapter III, are from paragraphs 16 to 44 in eight sections. The “Verification and Control Commission for Security Matters”, now paragraph 3, B, of Part II, takes into account the observations submitted by Costa Rica, El Salvador and Honduras in October 1984, and it has now its functions detailed, including an agreed establishment of an International Corps of Inspectors, for the appropriate implementation of the verification measures.

(c) In the final Draft Act of June 1986 — distributed as Annex II of the United Nations document A/40/1136-S/18184 — 2 July 1986 — Chapter III contains again the eight sections on Commitments on Security Matters, that are the concern not only of Nicaragua and Honduras, but of the other three Central American countries, and of the Contadora Group as mediators.

9. The Esquipulas II Procedure is a sequence both of the Esquipulas I Summit of 25 May 1986 (Annex 26 of the Memorial of Honduras), and of the Contadora Process. In the 1986 Esquipulas I Declaration, it can be recalled, the five Central American Presidents express that:

“They agree that the best political forum which is at present available to Central America for the achievement of peace and democracy, and the reduction of tensions produced in the countries of the region is the Contadora process...”

And they also declared:

“1. That they have decided to hold meetings of Presidents on a regular basis as a necessary and appropriate forum for analysing the most

urgent problems facing the area with respect to peace and regional development and *for seeking appropriate solutions to those problems.*" (Emphasis added.)

10. Accordingly, and after having given due consideration to President Arias' Plan, the five Presidents approved the Esquipulas II Procedure, that with regard to claims of Nicaragua against Honduras (and other countries), as well as claims and positions of Honduras with regard to the problems raised by the Nicaraguan situation, contains, in particular the following items:

"1. (c) National Reconciliation Commission.

To verify fulfilment of the commitments with regard to amnesty, a cease-fire, democratization and free elections entered into by the five Central American Governments in signing this document, a National Reconciliation Commission shall be set up in each country, responsible for verifying genuine implementation of the process of national reconciliation and also unrestricted respect for all the civil and political rights of Central American citizens guaranteed in this document.

2. Appeal for an end to hostilities.

The Governments make an urgent appeal that, in those States of the region where irregular or insurgent groups are currently active, agreement be reached to end hostilities. The Governments of those States undertake to take all necessary steps, in accordance with the constitution, to bring about a genuine cease-fire.

...

5. Termination of aid for irregular forces and insurrectionist movements.

The Governments of the five Central American States shall request Governments of the region and Governments from outside the region which are providing either overt or covert military logistical, financial or propaganda support, in the form of men, weapons, munitions and equipment, to irregular forces or insurrectionist movements to terminate such aid; this is vital if a stable and lasting peace is to be attained in the region.

6. Non-use of territory to attack other States.

The five countries signing this document reiterate their commitment to prevent the use of their own territory by persons, organizations or groups seeking to destabilize the Governments of Central American countries and to refuse to provide them with or allow them to receive military and logistical support.

7. Negotiations on security, verification and the control and limitation of weapons.

The Governments of the five Central American States, with the Contadora Group acting as mediator, shall continue negotiating on the points outstanding in the draft Contadora Act on Peace and Co-operation in Central America with regard to security, verification and control.

These negotiations shall also cover measures for disarming irregular forces prepared to avail themselves of amnesty decrees."

ANSWER TO QUESTIONS POSED BY JUDGE SHAHABUDEEN¹

Judge Shahabuddeen's First Question is summarized as follows:

"Can the Court competently consider this third view (to the effect that Article XXXI of the Pact by itself constitutes a self-sufficient declaration by each member of the Pact of acceptance of the Court's compulsory jurisdiction under Article 36, paragraph 2, of the Statute)? And if it can, and if this third view is accepted, how, if at all, would this affect the arguments?"

Honduras' answer to this question has been given extensively, in Professor Dupuy's pleading, Monday afternoon 13 June, in particular at pages 166-167, *supra*.

Judge Shahabuddeen's Second Question is as follows:

"Are there any ratifying members of the Pact who have not had any declarations in force under Article 36, paragraph 2, of the Statute? I really do not know myself the answer to that, but, if it is so, has this situation ever been criticized by other members, or by qualified commentators, as constituting a breach of an undertaking given in Article XXXI of the Pact to deposit declarations under Article 36, paragraph 2, of the Statute?"

Honduras' answer to this question has also been given in Professor Dupuy's pleading, Monday afternoon 13 June, showing the practice of States which are Parties to the Pact of Bogotá, at pages 167 ff., *supra*.

Judge Shahabuddeen's Third Question is as follows:

"It is the case that, even if it could be established that a State in fact intended its declaration to be irrevocable, it could still terminate it unilaterally in the exercise of an overriding sovereign power to define the terms on which it consents to jurisdiction?"

Honduras' answer is, first, that it does not construe a declaration for an indefinite term as an irrevocable declaration, but rather as one which the declarant State reserves the right to revoke.

But even supposing the declaration were expressed to be "irrevocable", that expression of intent by the State would remain unilateral and States must be deemed to remain free to change their minds (or their policies) so long as they have not entered into a binding commitment vis-à-vis another State which restricts that freedom. Such binding commitment could rise.

- (a) by separate treaty,
- (b) by operation of law, once another State had filed an application (the Nottebohm principle),
- (c) or possibly by estoppel, if a State, by its conduct had led another State to believe it would not revoke its declaration, and that other State had relied on that representation to its detriment.

But the unilateral declaration itself cannot create such a binding commitment for, as explained in Honduras' oral argument, the obligation not to

¹ See also pp. 70-71, *supra*. [Note by the Registry.]

revoke would have to arise from an undertaking towards a third Party. There is no such obligation contained in the Statute (*vis-à-vis* the Court). The idea that "good faith" might provide the obligation is illusory, for good faith presupposes *there is an existing obligation to be performed in good faith*. Nor can different, unilateral declarations be assimilated to a Treaty, so as to provide this obligation. Because, in practice, States reserve freedom to change or terminate declarations at will, so that one could never specify what content such a "treaty" possessed.

Judge Shahabuddeen's Fourth Question is this:

"It seems from the Nicaraguan Counter-Memorial (I), at page 303-304, that the 1974 Honduran protest characterized El Salvador's notice of immediate termination as 'completely lacking in validity'. Was Honduras, by this language, taking any position as to whether El Salvador's notice of termination was or was not wholly bad in law, and, correspondingly, as to whether the notice could or could not become operative after the passage of reasonable time?"

Honduras' answer to this question has been given in Professor Bowett's pleading, Monday afternoon, 10 June (*supra*, pp. 149-154), concerning the particular circumstances of El Salvador-Honduras relations in 1970. He explained that Honduras then believed that El Salvador had given special assurances that recourse to the I.C.J. would be available, and thus the modification of its declaration was a breach of these assurances. Moreover, given the absence of protest by any other State, Honduras then decided, as can be shown by subsequent acts of Honduras, to accept the validity of El Salvador's modification of the Salvadorian declaration. (*Supra*, at pp. 115-116.)

It should be noted, on the other hand, that it was never Honduras' opinion that the notice of modification of El Salvador's declaration did not become operative until "after the passage of a reasonable time".

In relation to filing, modification or termination of declarations, the operative date is the date on which the State expresses its will to be bound, or not to be bound, as the case may be. It does not matter, therefore, how long the Secretary-General takes to transmit the filing, modification or terminations of declarations to States which are Parties to the Statute of the Court.

Judge Shahabuddeen's Fifth Question is:

"I understand Honduras to be submitting that a consensual relationship comes into existence under Article 36, paragraph 2, of the Statute only on the filing of the application. Is there any merit in the view that an application is brought on the basis of consensual relationship? If so, can the application both bring the relationship into existence and be based on it?"

Honduras' answer is no. As the last sentence rightly implies, there is an essential contradiction in regarding the application as both creating and deriving from a consensual relationship. The best analogy is to regard the unilateral declaration as an "offer", or an "invitation to treat" which *per se* creates no legal obligation and can be withdrawn or modified at any time prior to "acceptance". But once another State "accepts" the offer of jurisdiction, by filing an application, the consensual relationship is established. Both parties are bound to the Court's jurisdiction in the terms of their declarations on the date of filing. This, in the view of Honduras, is essentially the Nottebohm principle.

RÉPONSE AUX TROIS QUESTIONS POSÉES PAR M. GUILLAUME¹

La première question concerne l'article XXXI du Pacte de Bogotá:

«a) Lors de la signature, de la ratification ou de l'entrée en vigueur du pacte de Bogotá ou de l'adhésion à ce pacte:

— les Etats contractants qui avaient souscrit auparavant à la déclaration de juridiction obligatoire de l'article 36 du Statut de la Cour (avec ou sans réserve) ont-ils notifié cette déclaration à l'Union panaméricaine ou à l'Organisation des Etats américains?

— les Etats contractants qui n'avaient pas souscrit auparavant à la déclaration de juridiction obligatoire de l'article 36 du Statut de la Cour ont-ils fait une déclaration spéciale pour l'application de l'article XXXI du pacte de Bogotá?

b) Lorsque certains Etats parties au pacte de Bogotá ont retiré leur acceptation de la déclaration de juridiction obligatoire de l'article 36 du Statut, ont-ils notifié ce retrait à l'Organisation des Etats américains? Ont-ils précisé alors quelle serait leur situation au regard de l'article XXXI?

c) Le retrait d'El Salvador du pacte de Bogotá a-t-il été accompagné d'une déclaration concernant l'article XXXI?

d) Les notifications opérées par les Etats à ces divers titres ont-elles été notifiées par l'OEA aux Etats parties? Ont-elles appelé des réactions (accusés de réception, acquiescements, protestations)?»

La réponse à la première question posée par M. Guillaume relativement à la pratique des Etats parties à l'égard de l'article XXXI du pacte de Bogotá a déjà été abordée dans la plaidoirie du professeur P.-M. Dupuy, lors de la séance du 13 juin 1988 (ci-dessus, notamment pp. 167-168). Les informations reçues entre-temps de l'Organisation des Etats américains (OEA) permettent toutefois d'apporter les précisions suivantes:

a) Les Etats contractants qui avaient souscrit une déclaration d'acceptation de la juridiction de la Cour conformément à l'article 36, paragraphe 2, de son Statut antérieurement à l'entrée en vigueur du pacte de Bogotá n'ont pas jugé nécessaire de notifier cette déclaration à l'Union panaméricaine ou à l'Organisation des Etats américains.

Cette attitude se comprend sans peine, si l'on considère le système de publication officielle, très largement diffusée, des déclarations optionnelles assuré par le Greffe au moyen des *Annuaire*s de la Cour internationale de Justice. Les Etats parties au Pacte de Bogotá sont alors implicitement partis de la présomption d'après laquelle ces déclarations antérieures étaient bien connues du service juridique de l'OEA.

Ceux d'entre eux qui n'avaient pas fait de déclaration selon l'article 36, paragraphe 2, du Statut de la Cour antérieurement à l'entrée en vigueur du pacte et qui ont, postérieurement à celle-ci, formulé une déclaration ne sont qu'au nombre de deux. L'un est le Costa Rica, en 1973. L'autre est précisément le Honduras, quand il renouvela sa déclaration de 1948 une première fois, en 1954 et, une seconde fois, en 1960.

Aucun de ces deux Etats n'a lors considéré nécessaire de notifier le texte de sa déclaration au secrétariat de l'OEA, parce que ce texte, ne comportant aucune réserve à la juridiction de la Cour, ne différerait substantiellement en

¹ Voir aussi ci-dessus, p. 137-138. [Note du Greffe.]

rien de celui de la déclaration collective de juridiction de la Cour effectuée par les Etats parties à l'article XXXI du pacte de Bogotá¹. Dans les rapports *inter se*, c'est-à-dire entre les parties au pacte, les nouvelles déclarations costaricaine et hondurienne n'apportaient ainsi aucun élément nouveau². Elles ne nécessitaient donc aucune notification à leur égard.

En revanche, la nouvelle formulation de la déclaration hondurienne de 1986 exigeait que le Gouvernement de Tegucigalpa avertisse dûment l'OEA des changements intervenus dans la substance de sa déclaration, puisque celle-ci comporte désormais des réserves. Rappelons que cette pratique n'a soulevé aucune objection de la part du service juridique de l'OEA, pas plus que des autres Etats parties au pacte et/ou membres de l'organisation régionale, y compris le Nicaragua, du moins, pour ce cernier, pendant à peu près un an!

b) Si l'on met à part les Etats parties au pacte qui, tels El Salvador ou le Honduras (voir *supra*), ont non pas dénoncé mais modifié leur déclaration de reconnaissance de la juridiction de la Cour depuis l'entrée en vigueur du traité interaméricain de règlement des différends, un seul Etat est concerné. Il s'agit du Brésil, qui n'a pas renouvelé sa déclaration du 12 mars 1948, accomplie à l'époque pour cinq ans. Au terme de la durée de validité de la déclaration de 1948, soit en mars 1954, le Brésil n'a pas notifié au secrétariat de l'OEA son non-renouvellement de la reconnaissance de juridiction sur la base de l'article 36, paragraphe 2, du Statut.

Là encore, cette abstention s'explique aisément. La déclaration brésilienne de 1948 était faite explicitement sous la seule condition de réciprocité. Elle ne comportait, en dehors de cette précision, aucune mention ni réserve particulière. Son contenu n'apportait ainsi aucun élément particulier par rapport à la déclaration collective souscrite à l'article XXXI du pacte. En conséquence, son non-renouvellement n'a en rien modifié l'engagement du

¹ S'agissant de la pratique des déclarations collectives de reconnaissance de juridiction de la Cour contenues dans un traité international, on rappellera que le cas du pacte de Bogotá n'est nullement isolé, ainsi que l'atteste en particulier, avant qu'il modifie sa présentation, l'*Annuaire de la Cour internationale de Justice* de 1960-1961. Ainsi que le notait justement le mémoire du Nicaragua en 1984, dans l'affaire l'opposant aux Etats-Unis, affaire dont on sait qu'il y soutenait alors vigoureusement l'identité de l'article XXXI du pacte avec une clause collective de l'article 36, paragraphe 2, du Statut, cet *Annuaire* «listed a number of other multilateral and bilateral treaties that also contained provisions purporting to establish the Court's jurisdiction by referring, directly or indirectly, to Article 36, paragraph 2, of the Statute» (mémoire du Nicaragua sur la juridiction de la Cour dans l'affaire des *Activités militaires et paramilitaires au Nicaragua et contre celui-ci*, 30 juin 1984, par. 93, note 2). Dans la liste des accords ainsi répertoriés, l'attention est tout particulièrement attirée par l'accord entre le Brésil et le Venezuela sur le règlement pacifique des différends du 30 mars 1940 (*C.I.J. Annuaire 1950-1951*, pp. 207-208), le traité également relatif au règlement des différends conclu entre le Danemark et la Finlande signé à Helsinki le 24 septembre 1953 (*C.I.J. Annuaire 1954-1955*, pp. 201-202) ainsi que l'accord portant sur un objet identique entre la Grèce et la Suède, du 11 décembre 1956 (*C.I.J. Annuaire 1957-1958*, p. 214). Ainsi que le notait également le *mémoire nicaraguayen de 1984* jusqu'à 1960-1961, avec ces autres accords dont la liste comportait en tout sept titres, «the Pact is listed in the same part of the Annex as the declarations accepting compulsory jurisdiction: it is listed separately from those treaties providing jurisdiction pursuant to Article 36, paragraph 1».

² La raison de leur émission tient au désir de ces Etats d'accorder à la Cour une juridiction qui ne soit pas restreinte aux seules parties au pacte: ces déclarations ont permis à ces deux Etats de reconnaître la juridiction de la Cour pour les différends éventuels qui les opposeraient à des Etats tiers (soit d'autres Etats américains non partis au pacte, soit tout autre Etat existant).

Brésil vis-à-vis des autres parties au pacte. Il n'y avait donc pas lieu d'en aviser l'OEA.

c) La dénonciation du pacte de Bogotá par El Salvador n'a pas été accompagnée d'une déclaration spécifique relative à l'article XXXI. Quoique la présence de cette disposition dans le traité en cause ait été certainement déterminante pour la décision d'El Salvador de le dénoncer (puisque'il craignait alors de se voir attiré devant la Cour par le Honduras à propos du différend frontalier qui l'opposait à cet Etat) El Salvador a préféré notifier sa décision en se référant au système général établi par le Pacte, dont il a estimé qu'il n'avait pas donné les résultats que l'on pouvait en escompter.

En conclusion, sur la pratique des Etats membres relativement au pacte de Bogotá, on constatera qu'elle ne contredit en rien le tableau des diverses possibilités offertes aux parties à l'égard de l'article XXXI du pacte, en liaison avec l'article 32, paragraphe 2, du Statut de la Cour, bien au contraire (voir plaidoirie du 13 juin 1988, ci-dessus p. 167).

Précisons de plus qu'en ce qui concerne les Etats ayant déjà émis une déclaration de reconnaissance sur la base de l'article 36, paragraphe 2, ils n'avaient évidemment pas à aviser individuellement le Greffe de la Cour de l'entrée en vigueur du pacte, avec son article XXXI, puisque cette notification avait été faite directement par les services de l'OEA au Greffe. On ne saurait donc déduire de cette absence de notification individuelle la preuve d'une autonomie des deux systèmes de reconnaissance de juridiction, l'un par rapport à l'autre.

d) La notification opérée par la République du Honduras au secrétariat général de l'OEA du nouveau texte de sa déclaration de reconnaissance de la juridiction de la Cour a, comme on sait, été ensuite diffusée par cette organisation auprès de tous les Etats parties. Deux d'entre eux ont réagi par un accusé de réception exempt de toute protestation: le Nicaragua, par note en date du 30 juin 1986, et la Colombie, par note du 14 juillet 1986 (voir ci-après, annexe 1 d)).

La deuxième question de M. Guillaume est relative à l'article XXXII du Pacte de Bogotá:

«La dernière phrase de l'article 32 dispose que: «La compétence de la Cour restera obligatoire, conformément au paragraphe 1 de l'article 36 du Statut.» Quel sens les Parties donnent-elles à ce texte, dans les diverses langues du pacte?»

La question posée par M. Guillaume relativement aux différences de traduction de la dernière phrase de l'article XXXII du pacte de Bogotá et aux enseignements qu'il conviendrait éventuellement d'en tirer pour l'interprétation de cette disposition appelle, de la part du Gouvernement du Honduras, les observations suivantes.

Ces différences illustrent une nouvelle fois les insuffisances ou imperfections de la traduction, en particulier vers le français. On en a rencontré d'autres manifestations avec l'article II du pacte. Le mémoire du Honduras a également appelé l'attention sur le cas du texte de l'article XXXV. Le Honduras s'en tient, quant à lui, ainsi qu'il l'a fait à propos de l'article II, aux textes espagnol et anglais, qui ont été les langues de travail des conférences préparatoires et, notamment, de celle de Bogotá.

En espagnol, le texte «la jurisdicción de la Corte quedara obligatoriamente abierta conforme al inciso 1º del Artículo 36 des mismo Estatuto» peut se traduire par «la juridiction de la Cour sera établie obligatoirement

conformément, etc.». C'est d'ailleurs exactement le sens que l'on retrouve dans le texte anglais: «The Court shall have compulsory jurisdiction in accordance with...» Le texte officiel français se contente donc d'une traduction littérale, qui risque effectivement, apparemment sans que les traducteurs s'en soient rendu compte, d'induire un sens dévié, par l'emploi servile du verbe rester. Cependant, ainsi que le démontrent les travaux préparatoires et le contexte général du chapitre IV, il n'y a lieu de tirer de cette traduction malhabile aucune conséquence de droit.

La troisième question de M. Guillaume relativement au processus de Contadora et d'Esquipulas II comporte trois points.

«a) Le processus de Contadora est-il définitivement abandonné? Est-il simplement suspendu? Se poursuit-il sous une forme ou sous une autre?»

La réponse du Honduras est la suivante:

Le processus de Contadora n'a pas été abandonné. Après que les quatre pays non centre-américains membres de Contadora aient présenté la version finale de l'acte, en juin 1986 (voir note de remise, en annexe 27 du mémoire du Honduras, I), les ministres des relations extérieures de Colombie, du Mexique, du Panama et du Venezuela, conjointement aux membres du groupe de soutien, MM. les ministres de relations extérieures de l'Argentine, du Brésil, du Pérou et de l'Uruguay, engagèrent, à l'automne 1986, des consultations avec les ministres des pays d'Amérique centrale, en particulier à l'occasion de la quarante et unième assemblée générale des Nations Unies et de la seizième assemblée générale de l'Organisation des Etats américains.

Puis, en compagnie des secrétaires généraux des Nations Unies et de l'OEA, ils visitèrent les capitales de l'Amérique centrale, en janvier 1987 (I, annexe 33 du mémoire du Honduras).

Le 13 avril 1987, les huit pays adoptèrent la «Déclaration de Buenos Aires» (annexe 3 a) 1 de la présente réponse), dans laquelle ils déclarent notamment:

— au paragraphe 4, que:

«ils soulignent l'importance de la proposition du président Arias, qui s'inscrit dans la volonté de réactiver le processus négociateur de Contadora...»;

— au paragraphe 5:

«que les groupes de Contadora et de soutien manifestent leurs dispositions à collaborer activement au succès de la réunion d'Esquipulas, au moyen d'un processus d'information et de consultations...»

Après une réunion de deux jours (voir note annexe à l'intervention de l'agent du Honduras, lors de l'audience orale du 13 juin 1988), les ministres des relations extérieures de l'Amérique centrale et Contadora indiquèrent à Tegucigalpa (Honduras), le 1^{er} août 1987, dans un communiqué commun (annexe 3 a) 2 de la présente réponse), ce qui suit:

— au paragraphe 4:

«on mit en évidence que le «plan Arias» et l'«acte de Contadora pour la paix et la coopération en Amérique centrale» ne sont pas des instru-

ments exclusifs l'un de l'autre, mais, plutôt, complémentaires. *En effet, les ministres des relations extérieures s'accordèrent à dire que le «plan Arias» est un précieux instrument susceptible de contribuer particulièrement à résoudre les problèmes les plus graves de la zone centre-américaine.* Ils réaffirmèrent également l'importance qu'ils attribuent à l'acte de Contadora, en tant que fruit d'une négociation conjointe, en le considérant comme un instrument global contenant un système intégré...» (les italiques sont de nous.)

— Au paragraphe 11:

«Les ministres des relations extérieures centre-américains adressèrent aux ministres des relations extérieures du groupe de Contadora une incitation en vue d'une nouvelle réunion de consultation, postérieure au sommet de Guatemala, en vue de s'engager plus avant dans le processus de pacification...»

Le sommet qui s'est tenu le 7 août 1987 à Guatemala a adopté la «Procédure en vue de l'instauration d'une paix ferme et durable en Amérique centrale», dans laquelle des compétences spécifiques sont conférées au groupe de Contadora.

«b) Quel rôle le groupe de Contadora a-t-il joué et joue-t-il dans l'application de la déclaration de Guatemala (Esquipulas II)?»

Le groupe de Contadora et le groupe de soutien sont inclus dans la procédure d'Esquipulas, tant au niveau politique des réunions des ministres des relations extérieures que dans l'application spécifique de certains accords concernant la sécurité qui, outre les manœuvres militaires, comprend: A) la négociation sur la limitation et la réduction des armements, effectifs et installations militaires — négociation pendante depuis 1986, mais qui constitue une partie essentielle du projet final de l'acte — et B) questions du contrôle et du suivi des engagements assumés par les gouvernements d'Amérique centrale.

A) En ce qui concerne les négociations relatives aux armements, effectifs et installations, il convient de constater, premièrement, que *le numéro 7 de la procédure d'Esquipulas élargit cette négociation afin qu'elle couvre aussi «des mesures visant à désarmer les forces irrégulières qui seraient disposées à invoquer les décrets d'amnistie»* (les italiques sont de nous.)

En second lieu, que la première réunion de l'Amérique centrale et du groupe de Contadora en vue de la mise en œuvre du numéro 7, se tint à Caracas (Venezuela) le 10 décembre 1987, selon les minutes du document ci-joint (annexe 3 b) 1 de la présente réponse).

Les antécédents aux négociations pendantes relatives aux engagements en matière de réduction d'armements et d'effectifs militaires peuvent être consultés dans les documents suivants, datant de 1986:

- proposition du Costa Rica et du Guatemala, en date du 27 mai 1986, relatives aux «Commitments with regard to military manœuvres and to armaments and troop strength» (Nations Unies, doc. A/40/420-S/18107) (annexe 3 b) 2 de la présente réponse).
- texte des «Commitments with regard to armaments and troop strength in the final version of the Contadora Act of 26 June 1986» (Nations Unies, doc. A/40/436-S/18184) (annexe 3 b) 3 de la présente réponse.)

B) En ce qui concerne les questions de contrôle et de suivi, la première observation est que les fonctions de contrôle que, en matière politique, le projet d'acte final de 1986 confiait à un comité *ad hoc* en vue de l'évaluation et du suivi des engagements en matière politique, de réfugiés et de déplacés, ont été en grande partie transférées aux «commissions nationales de réconciliation». Attendu que le comité prévu dans l'acte ne prendra ses fonctions qu'à l'entrée en vigueur de ce dernier et que les présidents considèrent que la réconciliation et la démocratisation sont des tâches urgentes en vue de la pacification de l'Amérique centrale, les commissions assument, dans chaque pays, des compétences de contrôle liées aux engagements d'Esquipulas II sur l'amnistie, le cessez-le-feu, la démocratisation, les élections libres et le strict respect des droits civils et politiques des Centre-Américains (Esquipulas, n° 1, a)).

La seconde observation est qu'Esquipulas II a instauré, au n° 10, une «commission internationale de contrôle et de suivi» (CIVS) composée des ministres des relations extérieures de l'Amérique centrale, du groupe de Contadora, du groupe de soutien et des secrétaires généraux des Nations Unies et de l'OEA. Le rapport de cette commission, le 13 janvier 1988, fut analysé par les cinq présidents des Républiques d'Amérique centrale lors de leur réunion du 16 janvier, dans laquelle ils décidèrent de centraliser les fonctions de négociation et de contrôle dans la commission exécutive des ministres des relations extérieures d'Amérique centrale, qui sera secondée dans ses travaux par des mécanismes intégrés par le biais du secrétaire général des Nations Unies.

Les principaux documents en la matière sont les suivants:

- mécanisme de la «verification and control commission for security matters», du projet d'acte de Contadora, de septembre 1985, qui regroupe des observations du Costa Rica, d'El Salvador, du Guatemala et du Honduras relatives à la définition des fonctions d'un «International corps of inspectors» (Nations Unies, doc. A/40/737-S/17549) (annexe 3 b) 4 de la présente réponse).

Ce mécanisme se maintient dans la version finale de l'acte de Contadora du 26 juin 1986, mais n'est pas totalement accepté par le Nicaragua;

- «statute of the verification and control mechanism for security matters» présenté par les gouvernements du Honduras, du Costa Rica et d'El Salvador, en février et mars 1985 (Nations Unies, doc. A/39/889-S/17104) (annexe 3 b) 5 de la présente réponse).

Il n'a pas été accepté à cause de l'opposition du Nicaragua et est tributaire des négociations;

- communiqué du 22 août 1987 des ministres des relations extérieures de Contadora, du groupe de soutien de l'Amérique centrale, avec les secrétaires généraux des Nations Unies et de l'OEA (annexe 3 b) 6 de la présente réponse).

On y annonce la constitution de la CIVS et on y programme des réunions;

- communiqué du 7 novembre 1987 sur la seconde réunion de la CIVS (annexe 3 b) 7 de la présente réponse);
- communiqué de décembre 1987 de la CIVS (annexe 3 b) 8 de la présente réponse);
- rapport final de la CIVS en date du 13 janvier 1988 (annexe 3 b) 9 de la présente réponse).

«c) Selon le septième alinéa de la déclaration adoptée le 16 janvier 1988 par les cinq présidents des Républiques de l'Amérique centrale à

San José de Costa Rica, une «commission exécutive, formée par les ministres des relations extérieures des Etats centre-américains aura la charge principale de vérification, contrôle, suivi de tous les engagements contenus dans la procédure de Guatemala et dans la présente déclaration». Cette commission exécutive recherchera à cette fin certaines coopérations extérieures. Cette même commission doit examiner le rapport général de la commission internationale de vérification et de suivi présenté à San José.

Comment a été appliqué le septième paragraphe de la déclaration du 16 janvier 1988: travaux de la commission exécutive? Quelles coopérations extérieures ont été cherchées et obtenues?»

La commission exécutive constituée des cinq ministres des relations extérieures de l'Amérique centrale commença ses travaux les 19 et 20 août 1987 (annexes 3 c) 1 et 2 de la présente réponse).

Lors de la seconde réunion, qui s'est tenue à Managua les 17 et 18 septembre 1987 (annexe 3 c) 3 de la présente réponse), la Commission a constaté avec satisfaction l'installation de la commission internationale de contrôle et de suivi (CIVS), la création de commissions nationales de réconciliation et la rapide réactivation des négociations sur la limitation des armements, effectifs et installations militaires (quoique cette réactivation se soit produite, de fait, jusqu'en décembre).

La troisième réunion, les 27 et 28 octobre, passa en revue les progrès réalisés et tint un important débat sur la simultanéité de l'accomplissement des engagements contractés (annexe 3 c) 4 de la présente réponse).

Après le sommet présidentiel du 16 janvier 1988, la commission tint sa quatrième réunion à San Salvador, les 16 et 17 février 1988 (annexe 3 c) 6), dont il convient de souligner que, dans l'exercice de sa fonction principale de contrôle, d'importantes décisions furent unanimement adoptées sur:

- la démocratisation et son contrôle (par. 3 et 4);
- aboutir, lors de la *prochaine réunion à des accords* sur la détermination des modalités, ainsi que des pays et organismes internationaux qui participeront *au contrôle spécifique* des engagements sur la cessation de l'aide apportée aux groupes irréguliers ou aux forces insurrectionnelles et le non-usage du territoire pour aggraver d'autres Etats (par. 5);
- inclure à l'ordre du jour la proposition du Honduras devant la dix-septième Assemblée générale de l'OEA (par. 7), proposition qui fut jointe à l'intervention du représentant du Honduras, le 13 juin, et qui reçut un accueil favorable du président du Nicaragua. (Voir annexe 3 c) 5 de la présente réponse: article du journal *El Pais*, de Madrid, même si le président Ortega donne certaines interprétations des faits étrangères à la proposition et attribue au Honduras d'autres propositions qui n'ont pas été formulées);
- adresser une véhémement exhortation aux mouvements insurrectionnels (d'El Salvador, du Guatemala et du Nicaragua) afin qu'ils se prévalent de l'amnistie et s'intègrent au dialogue et à la vie démocratique (par. 11).

Lors de la cinquième réunion, qui s'est tenue en deux parties, les 23-24 mars et le 7 avril, les ministres des relations extérieures ont poussé plus avant le processus négociateur avec des décisions qui cependant, à cause de l'obstruction du Nicaragua, n'ont pas encore pu être ratifiées (voir annexe 3 c) 7 de la présente réponse).

Il faut rappeler que l'armée populaire sandiniste a, à la veille d'une réunion avec les dirigeants de la «contra», lancé, en mars 1988, une offensive militaire d'envergure contre les insurgés, opérations militaires qui amenèrent l'armée sandiniste à envahir le territoire hondurien, et le Gouvernement du Honduras à exercer son droit inhérent de légitime défense (voir documentation liée à la demande du Nicaragua de mesures provisionnelles de protection, et à son retrait — dossier devant la CIJ, mars-avril 1988).

D'autre part, il faut constater de nouveau que, avec la signature de l'accord de Sapoá, en date du 23 mars 1988, fut conclu le premier accord de cessation des hostilités dans l'Amérique centrale et se sont ouvertes des possibilités sérieuses de démocratisation et de réconciliation au Nicaragua, malgré les récentes contradictions dans les négociations entre le gouvernement et la résistance nicaraguayenne (voir annexes 3 c) 8 et 3 c) 9 de la présente réponse).

Finalement, en ce qui concerne la *coopération extérieure* aux mécanismes de contrôle, le Gouvernement du Honduras rappelle le document, en date du 25 mai 1988, présenté comme annexe à l'intervention de l'agent du Honduras, le 13 juin, par lequel les gouvernements du Canada, de la République fédérale d'Allemagne et de l'Espagne déclarent être disposés à assister les pays centre-américains dans les fonctions de contrôle, à réception de l'invitation formelle en ce sens de la part des cinq pays.

Or, malheureusement, cette invitation, dont le texte fut présenté à la sixième réunion de la commission exécutive, qui s'est tenue à Tegucigalpa (Honduras), les 21 et 22 juin 1988 (voir annexe 3 c) 10 de la présente réponse, ne put être adoptée et envoyée à cette occasion au Secrétaire général des Nations Unies, du fait de la politique du Nicaragua continuant obstinément à en subordonner l'adoption à l'acceptation, de la part du Honduras et des autres participants, de nouvelles exigences, clauses et mesures uniquement favorables au Nicaragua, sans contreparties qui prendraient dûment en compte les intérêts légitimes de sécurité des autres pays participant à la négociation.

(Signed) Mario CARÍAS,
Agent of the Republic of Honduras.

List of Documents Appended to Honduran Answers to the First and Third Questions Posed by Judge Guillaume

1 d) *Article XXXI of Pact of Bogotá*

1. Accusé de réception de la lettre du secrétaire général de l'OEA en date du 30 juin 1986 par le Nicaragua en date du 7 juillet 1986.
Accusé de réception de la lettre du secrétaire général de l'OEA en date du 30 juin 1986 par la Colombie en date du 14 juillet 1986.
2. Note No. 218 DSM from Mr. Carlos López Contreras, Minister of Foreign Affairs of Honduras dated 15 June 1987 to the General Secretary of OAS.

3 a) *Participation of Contadora in Esquipulas II*

1. 13.04.87 Déclaration de Buenos Aires.
2. 01.08.87 Communiqué commun de la réunion des ministres des relations extérieures.

3 b) *Numéro 7 – Esquipulas II*

1. 10.12.87 Minutes de la première réunion du groupe centre-américain et Contadora pour la mise en œuvre de la procédure de Guatemala.
2. 28.05.86 Joint proposal of Costa Rica and Guatemala
3. 02.07.86 Act of Contadora. Commitments with regard to armaments and troop strength

Verification and security

4. 09.10.85 Act of Contadora. Verification and control commission for security matters.
5. 16.04.85 Statute of the verification and control mechanism for security matters under the Contadora Act of Peace and co-operation in Central America.
6. 22.08.87 Communiqué relatif à la constitution de la commission internationale de contrôle et de suivi, Caracas.
7. 07.11.87 Communiqué conjoint de la seconde réunion de la commission internationale de contrôle et de suivi, Washington.
8. 04.12.87 Communiqué de presse de la commission internationale de contrôle et de suivi, suite à sa quatrième réunion, New York.
9. 20.01.88 Rapport final de la commission internationale de contrôle et de suivi sur les progrès réalisés dans l'exécution des accords de la procédure en vue de parvenir à une paix ferme et durable en Amérique centrale.

3 c) *Executive Commission*

1. 20.08.87 Constitution et installation – Communiqué conjoint.
2. 20.08.87 Première réunion.
3. 18.09.87 Deuxième réunion.
4. 28.10.87 Troisième réunion.
5. 17.11.87 Interview du président Daniel Ortega, *El Pais*.
6. 17.02.88 Quatrième réunion.
7. 07.04.88 Cinquième réunion.
8. 10.06.88 Dialogue entre le gouvernement sandiniste et la «contra», *El Pais*.
9. 11.06.88 Dialogue entre le gouvernement sandiniste et la «contra», *El Pais*.
10. 21.06.88 Projet de note au groupe technique auxiliaire préparé par les ministres des relations extérieures d'Amérique centrale.

Annexe 1 d) 1

*Mission permanente du Nicaragua devant l'Organisation
des Etats américains, Washington, D.C.*

S. Exc. Monsieur João Baena Soares,
Secrétaire général de l'Organisation des Etats américains,
Washington, D.C.

N° 839/86 MPN/OEA

7 juillet 1986.

Excellence,

J'ai l'honneur de m'adresser à Votre Excellence pour accuser réception de

sa lettre du 30 juin dernier, par laquelle elle m'a fait parvenir une copie du communiqué n° DSM-206/86, en date du 26 mai 1986, que lui a adressé Son Excellence Monsieur le ministre des relations extérieures de la République du Honduras, conjointement à la déclaration du Gouvernement hondurien relative aux modifications apportées à l'acceptation de la juridiction de la Court internationale de Justice.

En la remerciant de cette transmission, je profite de l'opportunité pour renouveler à Votre Excellence les marques de considération et d'estime les plus profondes.

(Signé) Edgard PARRALES,
ambassadeur.

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Annexe 1 d) 2

*Mission permanente de Colombie, devant l'Organisation
des Etats américains, Washington*

S. Exc. Monsieur João Baena Soares,
Secrétaire général de l'Organisation des Etats américains,
Washington, D.C.

N° 471

14 juillet 1986.

Monsieur le Secrétaire général,

J'ai le plaisir de m'adresser à Votre Excellence pour lui accuser réception de sa lettre du 30 juin dernier par laquelle elle a bien voulu me faire parvenir une copie de la déclaration du Gouvernement hondurien relative aux modifications apportées à l'acceptation, de la part du Honduras, de la juridiction de la Cour internationale de Justice sur l'article XXXI du traité américain de solutions pacifiques.

Je renouvelle à Votre Excellence l'assurance de mes considérations distinguées.

(Signé) Francisco POSADA DE LA PENA,
ambassadeur.

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Annexe 1 d) 3

Ministry of Foreign Affairs of Honduras

Note 218-DSM

Tegucigalpa, D.C.
June 15, 1987.

Mr. Secretary General:

I have the honour to address your Excellency with reference to the note addressed to you under date of May 15, 1987, by the Minister of Foreign

Affairs of Nicaragua with respect to the communication from this Secretariat advising you of the amendments that the Government of Honduras has made to its acceptance of the jurisdiction of the International Court of Justice, in view of the fact that the terms of that amendatory declaration are equally applicable to Article XXXI of the American Treaty on Pacific Settlement

I consider it irrelevant to refer to the points of view set forth by the Nicaraguan Foreign Office a year after the General Secretariat communicated to it the amendments introduced to the acceptance of the jurisdiction of the International Court of Justice by the Republic of Honduras.

Suffice it to say that in the intervening period Nicaragua instituted proceedings against Honduras in the International Court of Justice and my country has already communicated its memorial alleging lack of jurisdiction of the Court on the grounds, *inter alia*, that the declaration to which Article 36, No. 2, of the Statute of the Court refers is the source of the Court's jurisdiction and any modification made to it equally modifies the scope of provisions contained in other instruments, as is the case with Article XXXI of the Pact of Bogotá, which in addition to expressly citing Article 36, No. 2, of the Statute of the Court, and of basing itself on that provision, is in all pertinent respects a faithful copy of that provision. It is worth mentioning that at the present stage of the litigation, and pursuant to Article 36, No. 6, of the Statute of the Court, the authority to decide on its own jurisdiction resides exclusively in the Court.

I should be very grateful if your Excellency would arrange for the text of this note to be circulated to the member States of the Organization.

Accept, Mr. Secretary General, the renewed assurance of my highest consideration.

Carlos LÓPEZ CONTRERAS,
Secretary.

His Excellency João Clemente Baena Soares,
Secretary General of the Organization of American States,
Washington, D.C.

[Spanish text not reproduced]

Annexe 3 a) 1

Déclaration de Buenos Aires

Les ministres des relations extérieures de Contadora et du groupe de soutien déclarent :

1. Que la crise centre-américaine est un conflit dont les répercussions affectent l'ensemble de la région, ainsi que la sécurité, la stabilité et la coexistence de nos pays et de nos peuples.

2. Qu'ils considèrent comme une préoccupation extrême la stagnation du processus négociateur tendant à la signature de l'acte de Contadora en vue de la paix et de la coopération en Amérique centrale, à partir de juin 1986, date à laquelle le groupe de Contadora remit le projet correspondant, et rappellent en outre l'engagement des Secrétaires généraux des Nations Unies et de l'Or-

ganisation des Etats américains de collaborer à l'application des mécanismes de vérification et de contrôle prévus dans l'acte de paix.

3. Que leur engagement à œuvrer pour la paix se voit renforcé par des faits tels que la réunion des cinq présidents centre-américains à Esquipulas (Guatemala), au mois de juin prochain.

4. Qu'ils soulignent également l'importance de la proposition du président Arias qui s'inscrit dans une volonté de réactiver le processus négociateur de Contadora, ainsi que l'exprime la lettre que le Gouvernement du Costa Rica fit parvenir — par le truchement de son ministre des relations extérieures — aux groupes de Contadora et de soutien, en date du 8 avril dernier, lettre dont l'un des paragraphes stipule:

« De ce fait, le Costa Rica souhaite exprimer à Messieurs les ministres des relations extérieures des groupes de Contadora et de soutien, ainsi qu'il l'a déjà fait en plusieurs occasions, que cette proposition se situe tout à fait dans le cadre des efforts négociateurs globaux de Contadora et que l'un de ses principaux objectifs est précisément de créer — dans de brefs délais qu'il faut tenter de fixer — une série de conditions qui permettent de renouer la négociation de l'acte et de lui donner un terme heureux, dans un contexte de démocratie, de paix, de liberté et de sécurité dans chacun des Etats centre-américains.

A cet égard, le Gouvernement du Costa Rica tient à signaler que la réunion des présidents, à Esquipulas, favorisera un accord entre les cinq pays, conjointement à la signature de la proposition, ou en tant que partie de celle-ci, en vue de réamorcer la négociation de l'acte, comme conséquence naturelle de l'exécution du plan costaricain. »

5. Que les groupes de Contadora et de soutien manifestent leurs dispositions à collaborer activement au succès de la réunion d'Esquipulas, au moyen d'un processus d'information et de consultations pour lequel ils ont convenu de s'adresser au Gouvernement du Guatemala aux fins d'analyser les mécanismes adaptés à cet effet.

6. Que, convaincus que c'est pour tous une obligation morale que de contribuer à la création d'un climat propice au dialogue entre les Centre-Américains et qu'il est nécessaire d'éviter que le temps qui nous sépare du sommet d'Esquipulas puisse donner lieu à des circonstances susceptibles de ternir ce climat, ils exhortent les pays directement ou indirectement impliqués dans le conflit à s'abstenir de tout fait ou action de force ou d'intimidation susceptible d'affecter les résultats de la prochaine réunion d'Esquipulas.

7. Enfin, ils conviennent de se réunir, outre les rencontres consécutives aux initiatives susdites, après la réunion d'Esquipulas pour en analyser les résultats et examiner les formes de coopération qui faciliteront la mise en œuvre des accords adoptés au sommet des présidents centre-américains, en vue de renouer les négociations de l'acte de Contadora.

Buenos Aires (Argentine), le 13 avril 1987.

Source: Mémoire du ministère des relations extérieures du Honduras, 1987.

[Texte espagnol non reproduit]

*Annexe 3 a) 2**Communiqué commun de la réunion des ministres des relations extérieures des pays centre-américains et du groupe de Contadora*

Réunis en la ville de Tegucigalpa (République du Honduras), les 31 juillet et 1^{er} août 1987, les ministres des relations extérieures des pays centre-américains, Rodrigo Madrigal Nieto (Costa Rica), Ricardo Acevedo Peralta (El Salvador), Mario Quinonez Amézquita (Guatemala), Miguel d'Escoto Brockmann (Nicaragua) et Carlos Lopez Contreras (Honduras) et les ministres des relations extérieures du groupe de Contadora, Julio Londono Paredes (Colombie), Bernardo Sepulveda Amor (Mexique), Jorge Abadia Arias (Panama) et Simon Alberto Consalvi (Venezuela) procédèrent à un examen de la situation centre-américaine telle qu'elle se présente aujourd'hui, dans le but de trouver des solutions justes et durables aux divers problèmes auxquels est confrontée la région.

Dans une atmosphère de cordialité, de compréhension et de franchise, ils réaffirmèrent qu'il incombe fondamentalement aux Centre-Américains de rechercher et de trouver ces solutions. Ils réaffirmèrent également l'importance de la contribution des pays du groupe de Contadora et du groupe de soutien, en signalant que la crise centre-américaine intéresse et affecte l'ensemble de la région.

C'est dans cet esprit qu'ils analysèrent attentivement le « plan Arias », ses implications et ses conséquences. Après un échange d'opinions fructueux, on parvint à la conclusion selon laquelle la crise centre-américaine est le fruit de tous les problèmes et situations relevant de la sphère nationale, ainsi que de ceux à caractère international et, par conséquent, leur extension la rend plus grave de jour en jour et il est impératif de déployer les efforts les plus grands pour revenir rapidement à une situation normale dans l'espace centre-américain.

En ce sens, on mit en évidence que le « plan Arias » et « l'acte de Contadora pour la paix et la coopération en Amérique centrale » ne sont pas des instruments exclusifs l'un de l'autre, mais plutôt complémentaires. En effet, les ministres des relations extérieures s'accordèrent à dire que le « plan Arias » est un précieux instrument susceptible de contribuer particulièrement à résoudre les problèmes les plus graves de la zone centre-américaine. Ils réaffirmèrent également l'importance qu'ils attribuent à l'acte de Contadora en tant que fruit d'une négociation conjointe, en le considérant comme un instrument global contenant un système intégral.

Les ministres des relations extérieures d'El Salvador, du Nicaragua, du Guatemala et du Honduras formulèrent des observations et des commentaires concernant le plan Arias; ils tendirent à préciser des concepts et à déterminer des procédures, aux fins de lui conférer davantage de positivité. A cet égard, le Gouvernement du Honduras présenta un document tendant à harmoniser les dispositions dudit plan avec celles de l'acte et des actions de Contadora. Le ministre des relations extérieures du Costa Rica manifesta sa satisfaction quant à toutes les observations faites et se proposa de les étudier attentivement, en envisageant de les adopter.

A la lumière des événements, les ministres des relations extérieures centre-américains décidèrent de solliciter la précieuse coopération du groupe de Contadora pour fixer les textes dans un document servant de base à la poursuite de la négociation lors de la réunion des ministres des relations extérieures centre-américains, à Guatemala. Une fois encore, le groupe de Contadora souligna sa volonté de contribuer à la solution de la crise centre-américaine, geste dont les ministres de relations extérieures de l'Amérique centrale lui surent gré.

Ils reconnurent les courageux efforts déployés par les gouvernements de la zone, en étroite collaboration avec les services du Haut Commissariat des Nations Unies pour les réfugiés (ACNUR), en vue d'une solution au problème posé par les milliers de réfugiés. A cet égard, ils prirent acte, avec satisfaction, du rapport des ministres des relations extérieures du Nicaragua et du Honduras, relatif à la mise en œuvre d'un processus de rapatriement volontaire des réfugiés nicaraguayens ainsi que d'actions qui seront menées, dans ce domaine entre le Costa Rica et le Nicaragua.

Les ministres des relations extérieures du Honduras et d'El Salvador rendirent également compte des efforts entrepris en vue de résoudre la problématique des réfugiés salvadoriens au Honduras et pour impulser des programmes de rapatriement volontaire. Ils annoncèrent la tenue, à San Salvador, à la fin de ce mois, d'une réunion de la commission tripartite qu'ils forment avec l'ACNUR.

Ils donnèrent également leur appui à la tenue d'une conférence régionale sur les réfugiés centre-américains qu'il est envisagé d'organiser l'année prochaine sous les auspices de l'ACNUR.

Messieurs les ministres exprimèrent leur satisfaction pour la présence à cette réunion de MM. Harry Belevan et Ricardo Tichauer, représentants respectifs des secrétaires généraux de l'Organisation des États américains et des Nations Unies, dont la présence constituait une réaffirmation du soutien apporté aux actions en faveur de la paix dans l'isthme centre-américain.

Les ministres des relations extérieures centre-américains adressèrent aux ministres des relations extérieures du groupe de Contadora une incitation en vue d'une nouvelle réunion de consultation, postérieure au sommet de Guatemala, en vue de s'engager plus avant dans le processus de pacification.

A cet effet, il fut convenu que les résultats du sommet présidentiel seraient transmis officiellement et immédiatement aux pays du groupe de Contadora et du groupe de soutien.

Les ministres des relations extérieures des quatre pays centre-américains et ceux du groupe de Contradora font état de leur reconnaissance à l'égard du Gouvernement du Honduras pour l'organisation d'une réunion qu'ils jugent hautement précieuse. Ils exprimèrent également leur gratitude pour la cordiale hospitalité du peuple hondurien.

Tegicugalpa, le 1^{er} août 1987.

Source: Mémoire du ministère des relations extérieures du Honduras, 1987.

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Annexe 3 b) 1

Minute de la première réunion du groupe centre-américain et Contadora pour la mise en œuvre de la procédure de Guatemala

En exécution du mandat figurant au numéro 7 de la «procédure pour instaurer une paix ferme et durable en Amérique centrale», s'est tenue à Caracas, le 10 décembre de cette année, une réunion des représentants des gouvernements des pays centre-américains, avec la participation du groupe de Contadora dans l'exercice de sa fonction médiatrice (annexe I)

Les membres de la réunion disposaient d'un document contenant les antécédents généraux et des suggestions sur l'organisation et la méthode de travail.

Les membres de la réunion adoptèrent l'ordre du jour suivant:

- 1) préciser les thèmes de référence des négociations;
- 2) organisation des travaux futurs;
- 3) date et siège de la prochaine rencontre.

A l'issue des délibérations, les représentants des pays centre-américains et du groupe de Contadora décidèrent ce qui suit, en ce qui concerne les points de l'ordre du jour:

1. Préciser les thèmes de référence des négociations

En ce qui concerne ce point, il y eut unanimité pour décider que les matières qui feraient l'objet d'un examen de la part de cette commission seraient énumérées ci-après:

- a) engagements en matière d'armements et d'effectifs militaires (acte, chap. III, sect. 2);
- b) engagements en matière de manœuvres militaires (acte, chap. III, sect. 1);
- c) affaires à caractère procédural et opérationnel, relatives au règlement ou au statut de la commission de vérification et de contrôle en matière de sécurité (acte, partie II, 2 B, e));
- d) mesures en vue du désarmement des forces irrégulières qui seraient disposées à invoquer les décrets d'amnistie.

En ce qui concerne les lettres a) et b), il fut convenu que, à la lumière de l'évolution survenue au cours des dix-huit derniers mois, les pays centre-américains pourraient élaborer de nouveaux documents et adapter, s'ils le jugent utile, les propositions déjà présentées. A cet égard, il fut fait mention des documents qu'avaient présentés les délégations du Honduras, du Nicaragua et de la proposition conjointe du Costa Rica et du Guatemala.

Pour ce qui concerne la lettre d), les délibérations dégagèrent une entente sur le fait qu'il faudrait aborder ce thème en détails lors d'une prochaine occasion, du fait de sa relation avec le processus général de réconciliation nationale.

2. Organisation des travaux futurs

Il fut convenu que les prochaines réunions seraient convoquées au moyen de consultation entre les pays centre-américains et le groupe de Contadora, étant entendu que ce dernier exercera la coordination de ladite réunion. Il fut également décidé que pourraient se constituer les groupes de travail qui seraient nécessaires, en fonction de la nature des sujets.

Il fut convenu de porter à l'attention des gouvernements qu'il convenait que leurs représentants aient un niveau hiérarchique approprié avec, de préférence, rang de vice-ministre et que, dans la composition des délégations, on tienne compte de la possibilité de former lesdits groupes de travail.

3. Date et siège de la prochaine rencontre

En ce qui concerne le siège des futures réunions, il fut convenu que celles-ci se tiendraient dans les pays du groupe de Contadora. A cet égard, le Panama proposa d'être le siège de la prochaine réunion qui, en principe, se tiendra la première semaine de février 1988, moyennant confirmation par voie de consultation.

Caracas, le 10 décembre 1987.

Source: Mémoire du ministère des relations extérieures du Honduras, 1987.

[Texte espagnol non reproduit]

Annexe 3 b) 2

Letter dated 27 May 1986 from the Chargé d'affaires a.i. of the Permanent Mission of Honduras to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the joint proposal of Costa Rica and Guatemala, to which El Salvador and Honduras have adhered (see annex), and to request you to arrange for its distribution as an official document of the fortieth session of the General Assembly, under agenda item 21, and of the Security Council.

At the same time, I should like to inform you that this proposal has already been communicated to the Organization of American States.

(Signed) Hector ZELAYA COLMANN,
Chargé d'affaires a.i.

ANNEX

JOINT PROPOSAL OF COSTA RICA AND GUATEMALA

Concerning the military manoeuvres, armaments and troop strength covered by Chapter III: "Commitments with regard to security matters" of the Contadora Act on Peace and Co-operation in Central America, the delegations of Costa Rica and Guatemala are aware that our negotiations must enter a more constructive phase in order for the commitments agreed to by our Foreign Ministers at their latest meeting in Panama on 6 and 7 April 1986 to be fulfilled. Since extremely divergent proposals exist which impede the achievement of the goals set for the signing of the Contadora Act on Peace and Co-operation in Central America on 6 June of this year, we have analysed these proposals and their consequences exhaustively, in the conciliatory spirit which guides us in these negotiations, and, in our desire to co-operate in the search for a consensus solution, we wish to comment as follows on the points of agreement on aspects vital to achieving peace in the region contained in the different proposals:

- (1) Both proposals recognize the need to impose limits on military development.
- (2) Both proposals recognize the need to create conditions for a climate of confidence among the States of Central America.
- (3) The proposals also agree that the security element is a fundamental factor for the overall development of each country and the general welfare of the peoples of Central America.
- (4) Similarly, the proposals reflect the political will to conclude the negotiating process by signing the Act on the agreed date.

In view of the above and of the fact that all the States represented by us agree that a comprehensive, simultaneous and verifiable settlement is essential to ensuring genuine compliance with the commitments into which they will enter, we present the following proposal:

Chapter III. Commitments with Regard to Security Matters

In conformity with their obligations under international law and in accordance with the objective of laying the foundations for effective and lasting peace, the Parties assume commitments with regard to security matters rela-

ting to the regulation of military manœuvres, the cessation of the arms build-up, the dismantling of foreign military bases, schools or other installations, the withdrawal of foreign military advisers and other foreign elements participating in military or security activities, the prohibition of the traffic in arms, the cessation of support for irregular forces, the denial of encouragement or support for acts of terrorism, subversion or sabotage and the establishment of a regional system of direct communication.

To that end, the Parties undertake to take specific action in accordance with the following:

Section 1. Commitments with Regard to Military Manœuvres

16. To comply with the following provisions as regards the holding of national military manœuvres:

(a) When national military manœuvres are held in areas less than 10 kilometres from the territory of another State and when the number of troops exceeds 1,000, the appropriate prior notification to the other States Parties and the Verification and Control Commission, mentioned in part II of this Act, shall be made at least 30 days beforehand.

(b) The notification shall contain the following information:

1. Name;
2. Purpose;
3. Participating troops, units and forces;
4. Area where the manœuvre is scheduled;
5. Programme and timetable;
6. Equipment and weapons to be used.

(c) Invitations shall be issued to observers from neighbouring States Parties.

17. To comply with the following provisions as regards the holding of international military manœuvres:

1. Not to hold the manœuvre within an area of 5 kilometres measured from the border, except with the consent of the adjoining country.
2. When the manœuvre is held in an area within 30 kilometres measured from the border, notification to the Verification and Control Commission and neighbouring States Parties shall be given at least 30 days beforehand, specifying:

- (a) Name;
- (b) Purpose;
- (c) Participating States;
- (d) Participating troops, units and forces;
- (e) Area where the manœuvre is scheduled;
- (f) Programme and timetable;
- (g) Equipment and weapons to be used.

3. The total number of combat troops in the manœuvre in the area established in paragraph 2 above shall not exceed 5,000 combatants.
4. The number of foreign combat troops participating in the manœuvre shall not exceed the number of national combat troops.
5. The zones in which artillery weapons are positioned shall be at such a distance that their maximum range is, in all directions, within the territory of the State in which the manœuvre is being held.
6. The duration of each manœuvre shall not exceed 30 days.

7. The total duration of manœuvres shall not exceed 60 days a year.
8. The States in whose territory the manœuvre is being held shall invite the other States Parties to send observers.

Section 2. Commitments with Regard to Armaments and Troop Strength

18. To halt the arms race in all its forms, imposing maximum limits on weapons and the number of troops under arms with a view to their control and reduction in order to establish a reasonable balance of forces in the region.

19. On the basis of the foregoing, the Parties agree:

(a) To submit simultaneously to the Verification and Control Commission their respective current inventories of weapons, military installations and troops under arms within 15 days of the entry into force of this Act.

(b) To regulate the maximum limit on military forces at the equivalent of 100,000 units of value in accordance with the basic chart for determining factors for establishing maximum limits for military development, which forms an integral part of this Act.

To that end, the following proportions and timetables are established:

1. Thirty days after the entry into force of the Act, no State Party shall have military resources exceeding the equivalent of 135,000 units of value.
2. Sixty days after the entry into force of the Act, no State Party shall have military resources exceeding the equivalent of 115,000 units of value.
3. Ninety days after the entry into force of the Act, no State Party shall have military resources exceeding the equivalent of 100,000 units of value.

(c) Not to increase their existing military equipment and forces after the date of entry into force of the Act. They may, however, replenish supplies, acquire ammunition and spare parts and mobilize reinforcements in order to keep existing equipment in operation and maintain current personnel levels, provided that the maximum limits agreed to in (b) above are not exceeded.

20. Not to introduce new weapons systems that alter the quality or quantity of current inventories of war *matériel*.

21. Not to introduce, possess or use lethal chemical weapons or biological, radiological or other weapons which may be deemed to be excessively injurious or to have *indiscriminate effects*.

22. To initiate constitutional procedures so as to be in a position to sign, ratify or accede to treaties and other international agreements on disarmament, if they have not already done so.

Annexe 3 b) 3

Report of the Secretary-General

1. This report is submitted in accordance with Security Council resolutions 530 (1983) of 19 May 1983 and 562 (1985) of 10 May 1985 and with General Assembly resolution 39/4 of 26 October 1984.

...

Section 2. Commitments with Regard to Armaments and Troop Strength

18. To halt the arms race in all its forms and begin immediately negotiations permitting the establishment of maximum limits for armaments and the number of troops under arms, as well as their control and reduction, with the object of establishing a reasonable balance of forces in the area.
19. On the basis of the foregoing, the Parties agree on the following implementation stages:

FIRST STAGE:

- (a) The Parties undertake not to acquire, after the entry into force of the Act, any more military *matériel*, with the exception of replenishment supplies, ammunition and spare parts needed to keep existing *matériel* in operation, and not to increase their military forces, pending the establishment of the maximum limits for military development within the time-limit stipulated for the second stage.
- (b) The Parties undertake to submit simultaneously to the Verification and Control Commission their respective current inventories of weapons, military installations and troops under arms within 15 days of the entry into force of this Act.
The inventories shall be prepared in accordance with the definitions and basic criteria in the Annex to this Act.
- (c) Within 60 days of the entry into force of this Act, the Verification and Control Commission shall conclude the technical studies and shall suggest to the States Parties, without prejudice to any negotiations which they have agreed to initiate, the maximum limits for their military development, in accordance with the basic criteria laid down in paragraph 20 of this section and in accordance with the respective timetables for reduction and dismantling.

SECOND STAGE:

After a period of 60 days from the entry into force of this Act, the Parties shall establish within the following 30 days:

- (a) Maximum limits for the types of weapons classified in the annex to this Act, as well as timetables for their reduction.
- (b) Maximum limits for troops and military installations which each Party may have, as well as timetables for their reduction or dismantling.
- (c) If the Parties do not reach agreement on the above-mentioned maximum limits and timetables within such period, those suggested by the Verification and Control Commission in its technical studies shall apply provisionally, with the prior consent of the Parties. The Parties shall set by mutual agreement a new time-limit for the negotiation and establishment of the above-mentioned limits.

Should the Parties fail to reach agreement on maximum limits, they shall suspend execution of the commitments with regard to international military manoeuvres, foreign military bases and installations and foreign military advisers for which time-limits have been set in the Act, except in cases where the Parties agree otherwise.

The maximum limits referred to in subparagraphs (a), (b) and (c) and the timetables shall be regarded as an integral part of this Act and shall have the same legally binding force from the day following expiry of the 30 days established for the second stage or the day following their establishment by agreement among the Parties.

Unless the Parties agree otherwise, under subparagraph (c) the maximum agreed limits shall be reached 180 days after the entry into force of the Act or in a period established by the Parties.

20. In order to satisfy the requirements of peace, stability, security and economic and social development of the countries of the region and in order to establish maximum limits for the military development of the Central American States and to control and reduce their military levels, the Parties will agree on a table of values that will consider the following basic criteria and in which all armaments will be subject to control and reduction:
 - (1) Security needs and defence capacity of each Central American State;
 - (2) Size of its territory and population;
 - (3) Length and characteristics of its borders;
 - (4) Military spending in relation to gross domestic product (GDP);
 - (5) Military budget in relation to public spending and other social indicators;
 - (6) Military technology, relative combat capability, troops, quality and quantity of installations and military resources;
 - (7) Armaments subject to control; armaments subject to reduction;
 - (8) Foreign military presence and foreign advisers in each Central American State.
21. Not to introduce new weapons systems that alter the quality or quantity of current inventories of war *matériel*.
22. Not to introduce, possess or use lethal chemical weapons or biological, radiological or other weapons which may be deemed to be excessively injurious or to have indiscriminate effects.
23. Not to permit the transit through, stationing, or mobilization in, or any other form of utilization of their territories by foreign armed forces whose actions could mean a threat to the independence, sovereignty and territorial integrity of any Central American State.
24. To initiate constitutional procedures so as to be in a position to sign, ratify or accede to treaties and other international agreements on disarmament, if they have not already done so.

Annexe 3 b) 4

Report of the Secretary-General

1. This report is submitted in accordance with Security Council resolutions 530 (1983) of 19 May 1983 and 562 (1985) of 10 May 1985.

...

B. Verification and Control Commission for Security Matters

(a) Composition

The Commission shall be composed of

- Four Commissioners, representing four States of recognized impartiality having a genuine interest in contributing to the solution of the Central American crisis, proposed by the Contadora Group and accepted by the Parties.
- A Latin American Executive Secretary, proposed by the Contadora Group and accepted by common agreement by the Parties, who shall be responsible for the ongoing operation of the Commission.

(b) Functions

For the performance of its functions, the Commission shall have an International Corps of Inspectors, provided by the member States of the Commission and co-ordinated by a Director of Operations.

The functions of the International Corps of Inspectors shall be established in the rules of procedure of the Commission.

- For the purpose of collaborating in the performance of the functions of the Commission, the latter shall have an Advisory Body consisting of one representative of each Central American State.
- The Commission may invite a representative of the Secretary-General of the United Nations and a representative of the Secretary General of the Organization of American States to participate in its meetings as observers.
- The Commission may establish auxiliary bodies and seek the assistance and collaboration of any Mixed Commissions that may exist.

(c) Functions of the Commission

The function of the Commission shall be to ensure compliance with the commitments assumed concerning to security matters. To that end it shall:

- Verify that the commitments concerning military manœuvres provided for in this Act are complied with.
- Ascertain that no more military *matériel* is acquired and that military forces are not increased, in accordance with the provisions of paragraph 19 (a) of Chapter III of this Act.
- Ascertain that the Parties comply fully with the maximum limits established previously for the various categories of armaments, military installations and troops under arms and with the reduction timetables agreed upon.
- Ascertain that the munitions, spare parts and replacement equipment acquired are compatible with the inventories and registers established previously, and with the limits agreed upon.
- Verify that no new weapons are introduced which qualitatively or quantitatively alter current inventories, and that weapons prohibited in this Act are neither introduced nor used.

- Establish a register of all commercial transfers of weapons carried out by the Parties, including donations and other transfers carried out within the framework of military assistance agreements with other governments.
- Receive the list of foreign military bases, schools and installations and verify their dismantlement, in accordance with the provisions of this Act.
- Receive the census of foreign military advisers and verify that they are withdrawn within the agreed period of time.
- Verify compliance with this Act in respect of traffic in arms and consider any reports of non-compliance. For that purpose the following criteria shall be taken into account:
 - (1) Origin of the arms traffic: port or airport of embarkation of the weapons, munitions, equipment or other military supplies intended for the Central American region.
 - (2) Personnel involved: persons, groups or organizations participating in the organization and conduct of the traffic in arms, including the participation of governments or their representatives.
 - (3) Type of weapon, munitions, equipment or other military supplies; category and calibre of weapons; country in which they were manufactured; country of origin; and the quantities of each type of weapon, munitions, equipment or other military supplies.
 - (4) Extraregional means of transport: land, maritime or air transport, including nationality.
 - (5) Extraregional transport routes: indicating the traffic routes used, including stops or intermediate destinations.
 - (6) Places where weapons, munitions, equipment and other military supplies are stored.
 - (7) Intraregional traffic areas and routes: description of the areas and routes; participation of governmental or other sectors in the conduct of the traffic in arms; frequency of use of these areas and routes.
 - (8) Intraregional means of transport: determination of the means of transport used; ownership of these means; facilities provided by governments, governmental and other sectors; and other means of delivery.
 - (9) Receiving unit or units for which the arms are destined: determination of the persons, groups or organizations to whom the arms traffic is destined.
- Verify compliance with this Act with regard to irregular forces and the non-use of their own territory in destabilizing actions against another State, and consider any report in that connection.

To that purpose, the following criteria should be taken into account:

 - (1) Installations, means, bases, camps or logistic and operational support facilities for irregular forces, including

command centres, radiocommunications centres and radio transmitters.

- (2) Determination of propaganda activities or political, material, economic or military support for actions directed against any State of the region.
- (3) Identification of persons, groups and governmental sectors involved in such actions.

— Verify compliance with the commitments concerning terrorism, subversion and sabotage contained in this Act.

(d) Rules and procedures

- The Commission shall receive any duly substantiated report concerning violations of the security commitments assumed under this Act, shall communicate it to the Parties involved and shall initiate such investigations as it deems appropriate.
- It shall also be empowered to carry out, on its own initiative the investigations it deems appropriate.
- The Commission shall carry out its investigations by making on-site inspections, gathering testimony and using any other procedure which it deems necessary for the performance of its functions.
- In the event of any reports of violations or of non-compliance with the security commitments of this Act, the Commission shall prepare a report containing recommendations addressed to the Parties involved.
- The Commission shall be accorded every facility and prompt and full co-operation by the Parties for the appropriate performance of its functions. It shall also ensure the confidentiality of all information elicited or received in the course of its investigations.
- The Commission shall transmit its reports and recommendations to the States Parties and to the governments of the Contadora Group on a confidential basis. It may make them public when it considers that that would contribute to full compliance with the commitments contained in the Act.
- After the Commission is established, it shall draw up its own rules of procedure in consultation with the States Parties.

(e) Duration of the mandate of the Commissioners

- The representatives of the member States of the Commission shall have an initial mandate of two years, extendable by common agreement among the Parties, and the States participating in the Commission.

(f) Establishment

- The Commission shall be established at the time when the Act is signed.

...

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*Annex 3 b) 5**Letter dated 15 April 1985 from the Permanent Representative of Honduras to the United Nations addressed to the Secretary-General of the United Nations*

I have the honour to transmit herewith the document entitled "Statute of the Verification and Control Mechanism for Security Matters" which was drawn up by the representatives of the Governments of Honduras, Costa Rica and El Salvador during meetings held in San José, Costa Rica, and in Tegucigalpa, Honduras, in February and March respectively.

The purpose of the document is to ensure faithful compliance with the commitments and obligations with respect to security matters which the five Central American Governments have agreed upon as part of the provisions of what is to become the final text of the Contadora Act on Peace and Co-operation in Central America, and which further develop the earlier comments of Honduras, Costa Rica and El Salvador which were circulated by the United Nations as document A/39/630, dated 2 November 1984.

On 15 March of this year, the Foreign Ministers of Honduras, Costa Rica and El Salvador presented the text of the Statute to their counterparts in the Contadora Group at a meeting of the nine Ministers for Foreign Affairs in Brasilia. Various ideas contained in the document were adopted at the recent meeting of plenipotentiaries in Panama (on 11 and 12 April), and since the document is now under discussion at the technical level, it was felt that it might be useful for it to be circulated as a further proposal aimed at ensuring an effective and lasting peace in Central America.

I should be grateful if you would arrange for the annexed document, the contents of which have already been brought to the attention of the Organization of American States (OAS), to be circulated as a document of the General Assembly, under agenda item 25, and of the Security Council.

(Signed) H. Roberto HERRERA CACERES,
Ambassador,
Permanent Representative.

Annex

Statute of the Verification and Control Mechanism for Security Matters under the Contadora Act on Peace and Co-operation in Central America

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Chapter I. DEFINITIONS

Sole Section

Sole paragraph

As used in this Statute, the terms listed below shall be defined as follows:

“The Act”:

The Contadora Act on Peace and Co-operation in Central America.

“Governmental authorities”:

Any civilian and military authorities assigned functions relating to the Mechanism in accordance with the provisions of this Statute.

“National contingents”:

Personnel of the same nationality provided by the Participating States for the International Corps of Inspectors.

“The Convention”:

The Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

“The Corps”:

The International Corps of Inspectors.

“Central American States or Parties”:

Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.

“State Party or Party”:

Any of the Central American States which are signatories of the Act.

“Participating State”:

States participating in the Mechanism which are neither Central American States nor members of the Contadora Group.

“Receiving States”:

A State in which members of the Mechanism have functions to perform.

“Contadora Group”:

Colombia, Mexico, Panama and Venezuela.

“The Board”:

The Claims Board for the settlement of claims of a private law character.

“The Mechanism”:

The Verification and Control Mechanism for Security Matters, comprising the Permanent Commission and the International Corps of Inspectors.

“Members of the Mechanism”:

The members of the Permanent Commission, the Executive Secretary, the Director of Operations, the staff of the Permanent Commission and of the International Corps of Inspectors, and any person not a resident of the receiving State employed by the Mechanism or assigned to it, and spouses and dependent family members of such persons.

“Resident of the receiving State”:

- (a) A person possessing the nationality of the receiving State;
- (b) A person residing in the receiving State; and
- (c) A person present in the territory of the receiving State who is not a member of the Mechanism.

Chapter II. PURPOSES AND STRUCTURE

1. In accordance with Part II.2 of the Contadora Act on Peace and Cooperation in Central America, a Verification and Control Mechanism for

Security Matters shall be established for the purpose of monitoring and ensuring faithful compliance with the commitments and obligations set forth in the Act.

2. The Mechanism shall be composed of:

- (a) The Permanent Commission; and
- (b) The International Corps of Inspectors.

Chapter III. PERMANENT COMMISSION

Section I. Membership of the Permanent Commission

1. The Permanent Commission shall be made up of representatives of the five Central American States and representatives of four States which have not participated in the Contadora negotiating process who are of recognized impartiality and have the technical and financial capacity and the political will to co-operate for peace in Central America.

The participating States in the Permanent Commission shall be proposed by the Contadora Group and accepted by consensus by the Central American countries before the entry into force of the Act.

The Participating States shall serve for renewable two-year terms.

Should a vacancy arise as a result of the definitive absence of an individual appointed to the Permanent Commission by a State Party or a Participating State, it shall be filled in accordance with the same procedure as for initial appointments at least three months before the vacancy arises.

2. The Permanent Commission shall begin to function on the date on which the Act enters into force.

3. Once duly constituted, the Permanent Commission shall, at its first session, appoint an Executive Secretary, from among the representatives of the four Participating States, who shall be responsible for the permanent functioning of the Permanent Commission.

4. The decisions of the Permanent Commission shall be taken by simple majority.

5. The Permanent Commission shall have such functions as are assigned to it in the Act and as are provided for in this Statute or any supplementary agreement between the Central American States.

6. *The headquarters of the Permanent Commission shall be at . . .*

Section II. Executive Secretary

1. The Permanent Commission shall appoint from among the members of the Participating States an Executive Secretary for a two-year term of office; on the expiry of that term he shall be replaced by another member representing a Participating State in the Permanent Commission of a nationality different from his own and that of the Director of Operations.

In the absence of the Executive Secretary, the Permanent Commission may appoint one of its members other than the Director of Operations to carry out the functions of the Executive Secretary on a temporary basis.

2. The Executive Secretary shall direct the Permanent Commission in the performance of its functions with respect to monitoring, conciliation, information and administration. The Executive Secretary shall have the power and authority to act on behalf of the Permanent Commission, to represent it legally, to enter into contracts, to acquire and alienate property, and to take all steps necessary for the performance of his duties, in conformity with the laws and regulations of the receiving State, this Statute and the instruments granting privileges and immunities to the Permanent Commission.

The Central Office of the Executive Secretary shall be situated at the headquarters of the Permanent Commission. The Executive Secretary shall conclude a Headquarters' Agreement with the Government of the Republic of . . . , which shall provide for the privileges and immunities of the Permanent Commission and its staff, including the International Corps of Inspectors, in keeping with its status of an international body.

3. In addition to recruiting staff directly, the Executive Secretary shall request Participating States which are members of the Permanent Commission to provide staff needed for the performance of functions assigned to the Commission.

The Executive Secretary shall also, at the request of the Director of Operations, ask those countries to provide qualified personnel for the performance of the functions assigned to the International Corps of Inspectors. In both cases, the Executive Secretary shall secure a commitment that the personnel will not be withdrawn from Central America without adequate prior notice.

4. The Executive Secretary may recruit locally such staff as may be required. At the request of the Executive Secretary, the authorities of the receiving State shall provide assistance in recruiting such staff. The terms and conditions of employment for locally recruited staff shall be determined by the Executive Secretary and shall be governed by the labour legislation of the receiving State.

5. The Executive Secretary shall report to the Permanent Commission on his activities from time to time or whenever requested to do so. He may also raise with one or more of the Parties, as the case may be, any matter relating to the functioning of the Permanent Commission. With that end in view, each Party shall designate high-ranking officials to ensure liaison with the Executive Secretary.

When one of the Parties or the Executive Secretary requests a meeting of the Permanent Commission, the meeting shall be held within 48 hours at a venue to be determined by the Executive Secretary.

Chapter IV. INTERNATIONAL CORPS OF INSPECTORS

Section I. Director of Operations

1. The Permanent Commission shall designate by consensus from among the members of the Participating States a Director of Operations, who shall be of a nationality different from that of the Executive Secretary and shall be responsible for planning and directing the activities of the International Corps of Inspectors. The term of office of the Director of Operations shall be two years, on the expiry of which he shall be replaced by one of the members of the Participating States of the Permanent Commission of a nationality different from his own and from that of the Executive Secretary.

2. The Director of Operations shall have full authority over the verification and control activities of the International Corps of Inspectors, to which end he shall issue the Standing Procedural Regulations in accordance with the general guidelines laid down by the Permanent Commission. He shall establish a chain of command linked to the heads of the national contingents provided by the Participating States members of the Permanent Commission and of the International Corps of Inspectors. The Director of Operations shall have authority, exercised through the established chain of command, over the members of the assigned contingents.

3. The Director of Operations shall bear overall responsibility for the conduct of the personnel under his authority. The heads of the national contingents of which the International Corps of Inspectors is made up shall be responsible for disciplinary measures in their respective national contingents. The Director of Operations may, upon authorization by the Permanent Commission, order the heads of the national contingents to withdraw any member of their contingent from the International Corps of Inspectors, without prejudice to the disciplinary measures that may be taken by the national contingent.

4. The seat of the Office of the Director of Operations shall be the same as that of the Executive Secretary.

Section II. Responsibility of the International Corps of Inspectors

1. The International Corps of Inspectors shall be made up of the national contingents provided by the Participating States members of the Permanent Commission proposed by the Contadora Group and accepted by the Parties by consensus. The Corps shall also have the necessary administrative personnel, which shall be provided by the Permanent Commission.

The Corps shall be under the direct authority and responsibility of the Director of Operations. Each contingent shall be headed by a person of its own nationality.

2. The Corps shall perform the functions and duties specified in the Act and in the present Statute.

3. The Corps shall monitor the performance of the commitments and obligations in respect of security matters provided for in the Act, and shall do its utmost, within its sphere of competence, to investigate exhaustively any alleged violation of its terms.

4. To ensure the effective discharge of its verification and control duties, the Corps may, as it deems appropriate, establish, direct and operate checkpoints, patrols and observation posts along the international frontiers and within the territory of the Parties, as well as any other mechanism necessary for the discharge of its duties.

5. The Corps shall verify and control periodically, in conformity with the guidelines laid down by the Permanent Commission, strict compliance with the ceilings for arms and troop strength established in the Act and its annexes. This activity shall be carried out once a month unless otherwise decided by the Parties.

6. Without prejudice to its other verification and control functions, the Corps shall carry out additional verification operations within 48 hours following receipt of a request from any of the Parties.

7. In carrying out verification and control activities in the territory of one of the Parties, the Corps may or may not, as it deems appropriate for the effective discharge of its functions, give prior notification to the Party in whose territory the investigation is to be conducted.

8. When the Director of Operations ascertains the existence of a violation, he shall immediately inform the Permanent Commission in order that it may take the relevant measures so that, within 48 hours from the time of official notification, the Party or Parties responsible rectify the violation.

The Party or Parties responsible shall notify the Permanent Commission of the measures taken, and the Commission shall order the additional investigations by the Corps necessary to confirm the effectiveness of the measures in question.

9. The Corps, through the Director of Operations, shall inform the Permanent Commission of all actions taken by individuals or groups of private citizens in violation of the provisions of the Act, in order that the Permanent Commission may notify the authorities of the Party concerned and monitor the measures to be taken by the appropriate authorities to rectify the actions thus notified. Likewise, the Permanent Commission may request any other information from the Party concerned with respect to the incident, or specifically on the measures taken to put an end to the reported actions and punish the individuals or groups responsible.

10. For the performance of its functions, the Corps shall enjoy freedom of movement in and access to the territory of the Parties, and to this end its members may freely cross international frontiers subject to no requirement other than the submission of appropriate identification.

11. Support flights by the Corps shall conform to the rules and procedures governing local or international flights, as the case may be. The Parties undertake to grant without delay overflight and landing permits where appropriate.

12. In order to ensure air safety, the air traffic control authorities shall be notified in a timely manner of verification and control flights made by aircraft of the Corps within the territory of any of the Parties.

13. Notification of verification and control flights made by the Corps across international frontiers shall be communicated to the air traffic control authorities of each of the Parties concerned as deemed appropriate for the effective discharge of their functions.

Section III. Organization of the International Corps of Inspectors

1. The International Corps of Inspectors shall have a suitable organization for carrying out its functions and shall be provided with the necessary offices, together with the required administrative and operational staff.

2. With the prior authorization of the Permanent Commission upon the request of the Director of Operations, the personnel of the Corps shall be provided with arms and equipment suitable for its peace-keeping mission.

3. The personnel assigned to the offices of the Corps shall include, *inter alia*, staff from each of the Participating States, members of the Permanent Commission, and the International Corps of Inspectors. The staff shall be organized by the Director of Operations, who shall fill posts in such a way as to ensure their appropriate distribution among the nationals of the Participating States.

Section IV. Reports

1. The International Corps of Inspectors shall submit its reports to the Permanent Commission through the Director of Operations no later than 24 hours after the completion of a verification and control mission or after the confirmation of a violation.

The Corps shall submit, through the Director of Operations, a monthly report to the Permanent Commission giving a summary of its activities and the conclusions which it has reached on the basis of the operations of the check-points, observation posts and patrols, or other means of verification and control used.

2. The Director of Operations, with the approval of the Permanent Commission, shall determine the format, requirements and terms of reference for the reports.

3. The reports of the Permanent Commission to the Parties shall be transmitted promptly through the national liaison offices of the Corps in the five Central American countries.

Chapter V. ARRANGEMENT FOR LIAISON

1. A permanent arrangement for liaison between the Parties and the Verification and Control Mechanism shall be established as a means of promoting the effective implementation of the provisions of the Act with regard to security matters.

2. Each Party shall set up in its own capital a liaison office under the direction of a high-ranking national official, which shall be staffed by its own nationals and have direct access to the authorities responsible for national security and defence. *Direct telephone links shall be set up between the national liaison offices, the headquarters of the Permanent Commission, and the offices of the Corps. Any other necessary means of communication shall also be set up.*

3. Joint meetings of the National Heads of the five liaison offices, which shall be presided over by the Director of Operations, shall be held at least once a month.

Any Party or the Director of Operations may request a special meeting, which shall be held within a period of 24 hours after the request has been made.

The first monthly meeting shall be held in . . . no later than two weeks after the International Corps of Inspectors has assumed its duties. Subsequent meetings shall be held in turn in the capitals of the Parties on the basis of alphabetical order, unless the Parties decide otherwise.

On its own initiative or at the request of any Party, the Permanent Commission shall use its good offices in order to resolve any issue which has not been settled through the arrangement for liaison and which hampers or prevents the effective implementation of the provisions of the Act.

Chapter VI. FINANCING, ADMINISTRATION AND FACILITIES

1. The Mechanism shall be financed by contributions from the Parties and other States, international organizations, individuals and private institutions. The contributions shall be used to establish a Central America Peace Fund, to be administered by the Executive Secretary, who shall be authorized to solicit and receive contributions.

2. The budget for each financial period shall be drawn up by the Executive Secretary and approved by the Permanent Commission. The financial period shall be determined by the Executive Secretary after consulting the Permanent Commission.

3. The Executive Secretary shall draw up the necessary administrative and financial regulations and submit them for the approval of the Permanent Commission.

The financial regulations shall include a provision to ensure that a periodic independent and professional audit is conducted and that the audit report is transmitted to the Permanent Commission and the contributors to the budget.

4. At the request of the Executive Secretary, each Party shall provide in its territory the necessary facilities for the proper functioning of the Mechanism. The Parties shall not be compensated for the use of grounds, buildings or any other type of movable or immovable property placed at the disposal of the Mechanism according to agreement.

Chapter VII. OBLIGATIONS OF MEMBERS OF THE MECHANISM
IN THE RECEIVING STATE

Section I. Compliance with the Law

1. The members of the Mechanism shall respect the laws and regulations of the receiving State. They shall refrain from any activity which is not in keeping with the international nature of their function. The Executive Secretary shall adopt all appropriate measures to ensure compliance with these obligations.

2. In carrying out their obligations and for the purposes of this Chapter, the members of the Mechanism shall receive their instructions solely from the Executive Secretary and the authorities in the chain of command established by the Executive Secretary.

3. The members of the Mechanism shall exercise maximum discretion with regard to all matters related to their functions; they shall not disclose any information of which they have knowledge by virtue of their duties in the Mechanism, unless they have been authorized to do so in the performance of their functions by the Permanent Commission, the Executive Secretary, or the Director of Operations, as the case may be. This obligation shall not cease upon the termination of their duties with the Mechanism.

Section II. Maintenance of Order and Discipline

1. The Executive Secretary shall take appropriate action to ensure the maintenance of discipline and order and guarantee the security of the members of the Mechanism. The Executive Secretary, in conjunction with the Director of Operations, may order the stationing of security guards on the premises and in the areas where the Mechanism is carrying out its activities.

2. The security guards shall promptly hand over to the competent national authorities of the receiving State any individual who is not a member of the Mechanism and has been detained or temporarily placed in their custody.

3. The competent national authorities of the receiving State shall promptly hand over to the Permanent Commission any member of the Mechanism who has been detained or temporarily placed in their custody.

4. The authorities of the receiving State and the Permanent Commission shall *duly co-operate with each other in disciplinary and criminal cases when necessary in order to facilitate the implementation of the provisions set forth in this Statute.*

Section III. Identification, Entry and Departure

1. The Executive Secretary shall notify the receiving State of the names, duties and scheduled dates of initial arrival and final departure of the members of the Mechanism.

The Executive Secretary shall issue members of the Mechanism with identity cards, presentation of which will enable them to enter or leave the receiving State.

Members of the Mechanism shall be exempt from customs inspection and from all restrictions on entering or leaving the territory of the receiving State. Members of the Mechanism shall also not be subject to the residence regulations of the receiving State and shall not acquire permanent residence or domicile rights during their stay there.

2. Members of the Mechanism shall at all times carry the personal identity card issued by the Executive Secretary.

Members of the Mechanism must present their identity card if requested to do so by a competent authority of the receiving State, but it may not be taken from them.

3. If a member of the Mechanism terminates his service with it and is not repatriated, the Executive Secretary shall immediately inform the authorities of the receiving State and shall provide the latter with any information it may request.

*Section IV. Appearance, Markings and Registration of Vehicles,
Vessels and Aircraft; Operating Licences*

1. When on duty, members of the Mechanism shall wear the identity badges issued by the Executive Secretary.

Official vehicles, vessels and aircraft shall be of the colour determined by the Executive Secretary and shall carry special identity and registration numbers which the Executive Secretary shall notify to the authorities of the receiving State.

These vehicles, vessels and aircraft shall be entered in a special register by the receiving State.

2. The authorities of the receiving State shall, upon presentation, accept as valid permits or licences issued by the Executive Secretary for official vehicles, vessels and aircraft.

Section V. Insurance of Vehicles, Vessels and Aircraft

Sole paragraph

The Executive Secretary shall arrange for all vehicles belonging to the Mechanism to be covered at least by third-party insurance.

*Section VI. Deceased Members
Measures concerning Personal Belongings*

Sole paragraph

The Executive Secretary shall make the necessary arrangements in respect of the body of a member of the Mechanism who dies in the territory of the receiving State. The expenses involved shall be borne by the Mechanism.

The Executive Secretary shall refer any claims received in respect of debts contracted by the deceased person in the territory of the receiving State to the appropriate channels.

Chapter VIII. PRIVILEGES AND IMMUNITIES

Section I. Immunity from Criminal, Civil and Administrative Legal Process

1. Immunity from criminal, civil and administrative legal process is accorded under this Statute to members of the Mechanism, in respect of their official functions but not their personal activities.

2. The Executive Secretary, in consultation with the State Party or participating State concerned, as the case may be, may waive immunity from legal process (penal, civil and administrative) in respect of members of the Mechanism. The Executive Secretary shall notify such waiver of immunity from legal process to the Permanent Commission, in accordance with the procedure established in this paragraph.

3. Waiver must always be express.

4. The initiation of legal proceedings by a member of the Mechanism shall preclude him from invoking immunity from legal process in respect of any counter-claim directly linked with the principal claim.

5. Waiver of immunity from legal process in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment, for which a separate waiver shall be necessary.

6. In cases where the Executive Secretary or the Permanent Commission, as the case may be, does not waive the immunity of members of the Mechanism, an effort must be made to find a just and equitable solution of the matter.

7. No judgment may be executed in respect of members of the Mechanism, except as provided in section , paragraph , of this Statute and provided that there is no infringement of the inviolability of the person or residence of the member concerned.

8. Members of the Mechanism shall not be compelled to give evidence.

9. The Executive Secretary shall, at the request of the receiving State, arrange for any member of the Mechanism who breaks the laws to leave the territory of that State.

10. Unless the Executive Secretary waives immunity from legal process, members of the Mechanism shall be subject solely to the jurisdiction of their respective States in respect of any offence committed in the receiving State.

11. The members of the Mechanism shall enjoy immunity from civil and administrative legal process, except in the cases referred to in paragraphs 1 (a), 1 (b) and 1 (c) of Article 31 of the Vienna Convention on Diplomatic Relations of 18 April 1961.

12. Disputes between a member of the Mechanism in the exercise of his official functions and a resident of the receiving State and any other disputes shall be settled in accordance with the procedure provided in Chapter , section , of this Statute.

13. In the event of court proceedings against a member of the Mechanism, the Executive Secretary shall, through the appropriate diplomatic channels and at the request of a court in the receiving State, certify whether or not the proceedings are connected with the member's official functions.

Section II. Premises of the Mechanism

Sole paragraph

The premises officially used by the Mechanism shall be inviolable and subject to the authority and control of the Executive Secretary, who, with prior authorization by the Permanent Commission, may allow the Authorities of the receiving State access to such premises.

Section III. Privileges and Immunities of the Mechanism

1. The Mechanism shall enjoy the privileges and immunities conferred by Article II of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, hereinafter referred to as "the Convention". The provisions of Article II shall also apply to the property, funds and assets of Participating States used in the receiving State in connection with the activities of the Mechanism.

2. The importation, free of duty, of the property of the Mechanism shall be expedited with the least possible delay, and shall be arranged by the Executive Secretary, through the appropriate diplomatic channel of the receiving State.

3. The Executive Secretary shall adopt all necessary measures to avoid any abuse of such fiscal privileges and the sale of such property without the express authorization of the receiving State.

4. The nine representatives of the States members of the Permanent Commission shall be granted, together with their spouses and dependent family members, the same privileges and immunities accorded to diplomatic agents under international law.

Section IV. Customs and Tax Provisions

1. The receiving State shall exempt members of the Mechanism from the payment of taxes on the salaries and emoluments which they receive from their national governments or the Mechanism. They shall also be exempt from the payment of any other taxes or duties in accordance with the provisions of Article 37 of the Vienna Convention on Diplomatic Relations.

2. The members of the Mechanism shall have the right to import, free of duty, their personal effects upon taking up their posts, in accordance with relevant international custom and practice.

3. The members of the Mechanism, with respect to their personal property which is not essential to the discharge of their functions shall be subject to the customs and foreign exchange laws and regulations of the receiving State.

4. Upon termination of their service with the Mechanism, members may, notwithstanding the foreign exchange regulations of the receiving State, take with them those funds which the Executive Secretary certifies as having been obtained in the form of emoluments from their respective national governments or from the Mechanism and which the member in question has converted into national currency at the Central Bank of the receiving State.

5. In order to ensure compliance by members of the Mechanism with the customs and tax laws and regulations of the receiving State, the Executive Secretary shall co-operate with the customs and tax authorities of the receiving State, in accordance with this Statute and any other relevant supplementary agreement.

Chapter IX. SPECIAL FACILITIES

Section I. Currency of the Receiving State

Sole paragraph

If the Executive Secretary so requests, the relevant authorities of the receiving State shall make available, subject to repayment in another mutually acceptable currency, currency of the receiving State required for the use of the Mechanism, including for the acquisition of property for members of the Mechanism, at the rate of exchange officially recognized by the receiving State.

Section II. Communications and Postal Services

1. The Mechanism shall have the right to use the communications services provided for in Article III of the Convention.

2. The Mechanism shall be empowered to establish and operate the communications systems necessary for the performance of its functions, subject to the provisions of Article 35 of the Torremolinos International Telecommunications Convention of 25 October 1973 on harmful interference. The

frequencies on which any station of this type may be operated shall be duly authorized by the competent authorities of the receiving State.

The Mechanism and the authorities of the receiving State shall hold such consultations as may be necessary with a view to avoiding harmful interference.

3. The Mechanism shall have the right to priority with regard to telegrams and telephone calls addressed to governments, its offices or those of the International Corps of Inspectors, in accordance with the rights accorded to the United Nations under Article 39 and Annex 3 to the Convention mentioned in the preceding paragraph and in Article 5, paragraph 10, of the telegraphic regulations annexed thereto.

4. The Mechanism shall also have the right to unrestricted communications by radio, telephone, telegraph or any other means and to establish the services necessary for the maintenance of such communications among and between its staff and its premises, including the establishment of fixed and mobile radio transmitting and receiving stations.

5. The receiving State shall recognize the right of the Mechanism to conclude agreements for the handling and transport of private correspondence addressed to or sent by its members. The receiving State shall be informed of such agreements before they are implemented.

6. When the postal agreements applicable to the private correspondence of the members of the Mechanism cover operations involving the transfer of money or the transport of packages or parcels out of the receiving State, the competent authorities of the latter and the Executive Secretary shall agree on the conditions in which such operations shall be carried out in the receiving State.

7. The correspondence of the Mechanism shall be inviolable and shall not be subject to interference or censorship by the receiving State.

Section III. Use of Lines of Communication

Sole paragraph

When the Mechanism uses roads and highways, bridges, port facilities, airports and railways, it shall not be subject to the payment of fees, tolls or taxes, except for the payments directly related to services requested and received.

Section IV. Water, Electricity and Other Public Services

1. The Mechanism shall have the right to the use of water, electricity and other public services at tariffs equal to those set for diplomats resident in the receiving State.

2. At the request of the Executive Secretary, the authorities of the receiving State shall assist the Mechanism in obtaining water, electricity and other public services required and, in the event of an interruption or threat of interruption of any service, shall accord to the needs of the Mechanism the same priority as that given to essential government services.

Section V. Supplies

Sole paragraph

At the request of the Executive Secretary, the authorities of the receiving State shall assist the Mechanism in obtaining from local sources the equipment, supplies and other goods and services required for its operation. The members of the Mechanism shall purchase locally, on the terms prevailing in the market, the articles necessary for their consumption and the services they need.

Chapter X. SETTLEMENT OF CLAIMS

1. Claims of a private law character shall be settled in accordance with the following provisions:

(a) The Executive Secretary shall be obliged to set forth in the relevant contract the necessary arrangements for the settlement of claims arising out of contracts or other claims of a private law character which are not covered by subparagraph (b) below;

(b) A Permanent Claims Board shall be established to settle the following claims:

- (i) Claims for whose settlement no contractual procedure has been established in accordance with paragraph (a) above;
- (ii) Claims brought by a resident of the receiving State against the Mechanism or a member thereof concerning any injury allegedly sustained as the result of an action or omission by such members of the Mechanism in connection with their official functions;
- (iii) Claims brought by a receiving State against a member of the Mechanism;
- (iv) Claims brought by the Mechanism against a receiving State or vice versa;
- (v) Labour claims resulting from a work contract or work relationship brought by local staff recruited by the Mechanism.

2. The Board shall consist of a representative of the Parties, chosen by agreement between them, a representative of the Mechanism, and a Chairman who shall be appointed by agreement by the two representatives.

If the Parties and the Mechanism cannot reach agreement with regard to the appointment of the Chairman, they shall select one from the panel of the Permanent Court of Arbitration.

3. Any vacancy in the Board shall be filled within 30 days by the procedure established in this section for the original appointment.

4. Two members of the Board shall constitute a quorum for the performance of its functions and a vote in favour by two members shall be sufficient for all deliberations and decisions of the Board.

5. The decision taken by the Board shall be binding and shall not be subject to appeal or to any other remedy.

The parties shall recognize the binding character of the decision taken in accordance with this Contract and shall have the obligations imposed thereby executed within their respective territories as if it were a final judgment handed down by one of their national courts.

Chapter XI. SETTLEMENT OF DISPUTES

1. In accordance with Part III, paragraphs 6, 7 and 8, of the Act, the machinery for the settlement of disputes arising from the application or interpretation of the Act with regard to security shall function through:

(a) The Meeting of the Ministers for Foreign Affairs of Central America;

(b) The Joint Meeting of the Ministers for Foreign Affairs of Central America and the Contadora Group.

2. The Meeting of the Ministers for Foreign Affairs of Central America shall meet at the request of any of the Parties or be convened by the Executive Secretary within a period of 72 hours from the time of the notice of con-

vocation, for the purpose of considering and taking a decision by consensus on any dispute concerning the interpretation or application of the Act which the Permanent Commission has been unable to settle.

3. The Meeting of the Ministers for Foreign Affairs shall take a decision on the specific situation brought to its attention, at the meeting convened for that purpose, without suspending the meeting or postponing the decision on the dispute.

4. The Joint Meeting of the Ministers for Foreign Affairs of Central America and the Contadora Group shall meet at the request of any of the Central American States, within a period of 72 hours from the time of notice of convocation, for the purpose of considering the dispute concerning the interpretation or application of the Act which the Meeting of the Ministers for Foreign Affairs of Central America has been unable to settle.

5. At the Joint Meeting, the Contadora Group shall use its good offices to enable the Central American States to adopt a decision on the dispute by consensus. In any event, at the Joint Meeting, the Central American States shall take a decision at the meeting convened for that purpose, without suspending the meeting or postponing the decision on the dispute.

6. If no decision putting an end to the dispute is taken at the Joint Meeting, that venue shall be considered exhausted and the Ministers for Foreign Affairs of the States of the Contadora Group may suggest to the Central American States the use of another peaceful means of settlement of the dispute, in accordance with Article 33 of the Charter of the United Nations (UN) and Article 24 of the Charter of the Organization of American States (OAS).

7. The Meeting of Ministers for Foreign Affairs of Central America can be held if three of its members are present. The Joint Meeting of the Ministers for Foreign Affairs of Central America and the Contadora Group can be held if five of its members, at least three of whom are Central Americans, are present.

Chapter XII. FINAL PROVISIONS

Section I. Supplementary Agreements

Sole paragraph

The Executive Secretary and the authorities designated by the receiving State may conclude supplementary agreements for the implementation of this Statute.

Section II. Entry into Force

Sole paragraph

This Statute shall enter into force in the same way and on the same date as the other provisions of the Act and shall remain in force so long as the Act is in force. Nevertheless, the provisions of paragraphs 1, 2, 3, 4 and 5 of Chapter X, on the settlement of claims, shall remain in force until all the claims arising before the date of termination of this Statute and filed prior to or during the three months following the date of termination of this Statute have been settled.

Done in the city of _____, Republic of _____ on _____ 19 ____ .
 For Costa Rica _____ For El Salvador _____
 For Guatemala _____ For Honduras _____
 For Nicaragua _____

*Annexe 3 b) 6**Communiqué*

Les ministres des relations extérieures de la Colombie, du Mexique, du Panama et du Venezuela, membres du groupe de Contadora; de l'Argentine, du Brésil, du Pérou et de l'Uruguay, membres du groupe de soutien; du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua; le Secrétaire général de l'Organisation des Etats américains et le représentant personnel du Secrétaire général des Nations Unies se sont réunis en la ville de Caracas, le 22 août 1987, dans le but d'évaluer les progrès réalisés dans les actions en faveur de la paix en Amérique centrale.

Les ministres des relations extérieures des pays centre-américains rendirent compte des résultats de la réunion des présidents centre-américains qui s'est tenue les 6 et 7 août à Guatemala et lors de laquelle ils signèrent le document dénommé «procédure en vue d'instaurer une paix ferme et durable en Amérique centrale». Ils annoncèrent également que, conformément à la procédure de Guatemala, ils s'étaient constitués, au cours de la réunion de San Salvador, les 19 et 20 août, en commission exécutive pour réglementer, impulser et rendre viable l'exécution de cette procédure.

Les ministres des relations extérieures du groupe de Contadora et du groupe de soutien, de même que le Secrétaire général de l'Organisation des Etats américains et le représentant personnel du Secrétaire général de l'Organisation des Nations Unies réaffirmèrent leur profonde satisfaction pour l'accord réalisé, fruit de la volonté politique des gouvernements centre-américains de résoudre leurs différends par la voie du dialogue et dans le respect des intérêts légitimes de tous les Etats.

En cette occasion, les ministres des relations extérieures, le Secrétaire général de l'Organisation des Etats américains et le représentant personnel du Secrétaire général de l'Organisation des Nations Unies analysèrent les acquis de la «procédure du Guatemala», dans les aspects requérant la participation du groupe de Contadora, du groupe de soutien et des secrétaires généraux de l'Organisation des Etats américains et des Nations Unies. A l'issue de la réunion, ils décidèrent de:

1. Constituer la commission internationale de contrôle et de suivi envisagée au numéro 10, lettre A, de la «procédure de Guatemala». Ils signèrent, à cet effet, l'Acte d'installation correspondant.

2. Convoquer une réunion de représentants *ad hoc* qui se tiendra à Managua, les 7 et 18 septembre, aux fins d'établir les modalités d'exercice des fonctions de contrôle et de suivi des engagements figurant dans la «procédure de Guatemala».

3. Réunir périodiquement la commission et accepter l'invitation du Secrétaire des Nations Unies pour organiser en décembre prochain, à New York, une réunion destinée à analyser les progrès réalisés dans l'application des engagements assumés dans la «procédure de Guatemala».

Pour leur part, les gouvernements faisant partie de la commission internationale de contrôle et de suivi solliciteront en temps opportun la contribution des Nations Unies et de l'Organisation des Etats américains à la «procédure de Guatemala».

Les ministres des relations extérieures des groupes de Contadora et de soutien jugèrent nécessaire que les importantes décisions politiques adoptées se voient accompagnées d'une amélioration de la situation économique et sociale des pays de l'Amérique centrale.

En ce sens, ils décidèrent d'entreprendre dès maintenant les démarches nécessaires pour mettre en œuvre un programme international d'urgence de coopération technique et économique destiné aux cinq pays de la région. A cet effet, ils engageront à brève échéance les actions qui s'imposent pour sa mise en œuvre, y compris les démarches correspondantes auprès de la communauté internationale.

Les ministres des relations extérieures du groupe de Contadora, du groupe de soutien et de l'Amérique centrale, ainsi que le Secrétaire général de l'OEA et le représentant personnel du Secrétaire général des Nations Unies exprimèrent leur gratitude pour les marques d'attention reçues durant leur séjour au Venezuela qui ont contribué de façon significative au succès de la réunion.

Caracas, le 22 août 1987.

Source: Mémoire du ministère des relations extérieures du Honduras, 1987.

[Texte espagnol non reproduit]

Annexe 3 b) 7

*Communiqué conjoint de la seconde réunion
de la CIVS, 7 novembre 1987*

La commission internationale de contrôle et de suivi de la procédure en vue de l'instauration d'une paix ferme et durable en Amérique centrale, composée des ministres des relations extérieures de l'Argentine, du Brésil, de la Colombie, du Costa Rica, d'El Salvador, du Guatemala, du Honduras, du Mexique, du Nicaragua, du Panama, du Pérou, de l'Uruguay et du Venezuela, et des secrétaires généraux de l'ONU et de l'OEA, s'est réunie le 7 novembre 1987 au siège de l'OEA.

La Commission a procédé à une première évaluation du niveau d'avancement des engagements assumés par les cinq gouvernements centre-américains le 7 août 1987, à Guatemala, et a exprimé sa reconnaissance pour les diverses mesures adoptées par chacun des gouvernements de la région. Elle releva particulièrement celles relatives aux engagements qui entrèrent simultanément en vigueur le 5 novembre, quatre-vingt-dix jours après la signature de l'accord. Elle mit spécialement en relief les mesures suivantes:

1. Composition et installation des commissions nationales de réconciliation chargées de vérifier le respect des engagements en matière d'amnistie, de cessez-le-feu, de démocratisation et d'élections libres dans les cinq pays, ainsi que la création de commissions et sous-commissions complémentaires au El Salvador et au Nicaragua.
2. Etablissement du dialogue avec l'opposition politique interne au El Salvador et au Nicaragua.
3. Adoption de décrets d'amnistie au El Salvador et au Guatemala et de grâce au Nicaragua.

Présentation, au Nicaragua du projet de loi d'amnistie dont l'application est soumise à la vérification, de la part de la CIVS, du respect simultané des en-

gagements relatifs au non-usage du territoire d'un Etat pour agresser d'autres Etats et de la cessation de l'aide externe aux forces irrégulières.

4. Mesures en vue de la négociation du cessez-le-feu par la voie du dialogue direct avec l'opposition armée au El Salvador; déclarations unilatérales de cessez-le-feu au El Salvador et au Nicaragua; et actions visant à négocier le cessez-le-feu par le truchement d'un intermédiaire au Nicaragua.

5. Au Nicaragua, levée de la censure préalable et réouverture du quotidien *La Prensa* et de Radio Catolica; suspension de l'interdiction d'entrer au pays visant certains prêtres de l'église catholique; et présentation du projet de loi visant à la suspension de l'état d'urgence, soumis à la vérification, de la part de la CIVS, du respect simultané des engagements relatifs au non-usage du territoire d'un Etat pour agresser d'autres Etats et de la cessation de l'aide externe aux forces irrégulières.

6. Signature du traité constitutif du Parlement centre-américain et d'autres instances politiques, par les présidents des cinq Etats et présentation dudit traité aux organismes législatifs correspondants.

7. Promotion du processus de rapatriement volontaire de réfugiés en Amérique centrale, avec l'appui du Haut Commissariat des Nations Unies pour les réfugiées (ACNUR) et adoption de nouvelles mesures de coopération régionale en la matière.

8. Appel lancé par les gouvernements du Costa Rica, d'El Salvador, du Guatemala et du Nicaragua, demandant que cesse le soutien externe apporté aux forces irrégulières et aux mouvements insurrectionnels opérant dans la région. De même, exhortation adressée auxdits mouvements ou forces, demandant qu'elles s'abstiennent de recevoir une telle aide.

9. Déclarations des cinq gouvernements centre-américains par lesquelles ils réaffirment leur engagement à empêcher l'usage de leur propre territoire pour agresser d'autres Etats.

10. Installation et fonctionnement de la commission exécutive composée des cinq ministres des relations extérieures centre-américains et qui s'est réunie périodiquement.

11. Installation et fonctionnement de la CIVS et envoi en Amérique centrale d'une mission technique préliminaire ONU/OEA chargée d'évaluer sur le terrain la nécessité d'une inspection *in situ*.

12. Déclarations de soutien à la CIVS de la part des cinq gouvernements centre-américains et ratification de sa décision de permettre le contrôle *in situ* convenu en commission exécutive lors de la troisième réunion.

13. Décision de convoquer une réunion pour que les gouvernements centre-américains renouent avec la participation du groupe de Contadora dans l'exercice de sa fonction médiatrice, la négociation portant sur les affaires pendantes de l'Acte de Contadora en matière de sécurité, de vérification et de contrôle.

14. Concertation entre les ministres des relations extérieures et les ministres responsables de l'intégration économique, pour promouvoir le développement économique et social intégré de la région, avec le concours de la coopération internationale, dans le cadre de la procédure de Guatemala.

La CIVS prit acte du rapport de la mission technique préliminaire ONU/OEA qui s'est déplacée en Amérique centrale du 21 au 27 octobre, dans le but de déterminer la nécessité d'une inspection *in situ* en matière de sécurité.

En exprimant ses remerciements pour le rapport fourni, la commission décida de proroger le mandat de la mission, afin qu'elle complète la détermination desdites nécessités et approfondisse l'examen des questions pertinentes.

La mission présentera ses suggestions avant le 20 novembre.

La Commission décida que les représentants *ad hoc* se réuniraient en la ville de New York les 2 et 3 décembre, dans le but de préparer la réunion de la commission elle-même le 4 du même mois.

La Commission décida de solliciter auprès des gouvernements centre-américains la présentation, avant le 20 novembre, de rapports permettant d'analyser les progrès réalisés dans l'exécution des accords figurant dans la procédure de Guatemala. De même, elle décida d'inviter les présidents des commissions nationales de réconciliation à participer à ladite rencontre.

Les ministres des relations extérieures et le Secrétaire général des Nations Unies exprimèrent leurs remerciements pour l'attention et la courtoisie dont ont fait preuve le secrétaire général de l'OEA et le personnel de l'Organisation.

[Texte espagnol non reproduit]

Annexe 3 b) 8

Communiqué de presse de la commission internationale de contrôle et de suivi, New York, le 4 décembre 1987

La commission internationale de contrôle et de suivi de la procédure de Guatemala a tenu sa quatrième réunion, le 4 décembre 1987 au Siège des Nations Unies. Cette réunion a eu lieu cent vingt jours après la signature de la procédure, dans le but prévu d'analyser les progrès réalisés dans l'exécution des accords qu'elle contient. Les représentants *ad hoc* des membres titulaires de la CIVS s'étaient réunis les 2 et 3 décembre.

Dans le cadre de l'examen des importants progrès réalisés dans l'exécution de la procédure de Guatemala, les membres de la CIVS ont rencontré les présidents des commissions nationales de réconciliation ou les membres de la CNR qui ont pu assister à la réunion en se rendant à l'invitation qui leur avait été envoyée.

La CIVS a examiné le second rapport de la mission technique préliminaire ONU/OEA relatif à l'inspection *in situ* du respect des engagements en matière de sécurité, dont les conclusions donneront lieu à examen de la part des membres de la CIVS.

Aux fins d'établir le rapport que les cinq présidents centre-américains auront à examiner lors de leur réunion du 15 janvier prochain, la CIVS prit les dispositions nécessaires à sa préparation, y compris le format que celui-ci adopterait, et les apports additionnels par lesquels les gouvernements centre-américains devraient apporter leur contribution. A cette fin, la CIVS décida que les représentants *ad hoc* effectueraient une mission du 4 au 10 janvier dans les cinq pays centre-américains, dans lesquels ils auraient des entretiens et solliciteraient des informations en vue de la rédaction finale, à Panama, du rapport de la CIVS à l'intention des présidents centre-américains.

Minute de la quatrième réunion de la commission internationale de contrôle et de suivi de la procédure de Guatemala, qui s'est tenue, à New York, le 4 décembre 1987

I. Introduction

La commission internationale de contrôle et de suivi a tenu sa quatrième réunion le 4 décembre 1987 au Siège des Nations Unies.

II. Consultations des commissions nationales de réconciliation

1. Au premier point de l'ordre du jour, les titulaires de la CIVS écoutèrent la présentation des rapports des représentants des commissions nationales de réconciliation du: Costa Rica, El Salvador, Guatemala et Nicaragua. Le secrétaire général donna lecture d'un télégramme par lequel le représentant de la CNR du Honduras, qui devait participer à la réunion, indiquait ne pouvoir le faire et proposait de soumettre un rapport écrit.

2. La commission décida de demander aux CNR, qui ne l'auraient pas fait, d'envoyer leurs rapports aux membres de la CIVS au plus tard le 20 décembre, afin de contribuer à l'élaboration du rapport final à l'intention des présidents centre-américains.

III. Contrôle des engagements de la procédure de Guatemala

1. La CIVS, après avoir examiné le second rapport de la mission technique préliminaire ONU/OEA, estima que, ainsi qu'il ressortait des conclusions de ce dernier, il existait des difficultés politiques de fond qui empêchaient, pour le moment, le contrôle *in situ* du respect des engagements en matière de sécurité, prévu par la procédure de Guatemala.

2. La CIVS décida que les représentants *ad hoc* effectueraient une mission du 4 au 10 janvier 1988 dans chacun des pays centre-américains, au cours de laquelle ils auraient des entretiens et solliciteraient des informations en vue de la rédaction finale du rapport de la CIVS à l'intention des présidents centre-américains. Elle accepta l'offre généreuse du gouvernement du Panama de mettre à la disposition de la mission des moyens logistiques et de transport aérien pour la réalisation de ladite mission qui s'achèverait en la ville de Panama où les représentants *ad hoc* mettraient la dernière main à la préparation du rapport à présenter aux présidents centre-américains.

3. On prit l'accord de principe selon lequel la CIVS se réunirait le 12 janvier 1988 en la ville de Panama.

IV. Préparation et approbation du rapport de la CIVS à l'intention des présidents

1. La réunion approuva le format que la CIVS devrait soumettre aux cinq présidents centre-américains, figurant au document IV.CIVS/2/Rev.1. Il fut décidé de solliciter auprès des secrétaires généraux des Nations Unies et de l'OEA la préparation d'un brouillon de rapport qui serait envoyé dès que possible aux ministres des relations extérieures des gouvernements des États membres et, en tout état de cause, avant le 4 janvier, afin de faciliter l'élaboration du rapport à l'intention des présidents, et également la tâche des représentants *ad hoc* dans les entretiens qu'ils auront au cours de leur mission.

2. En ce qui concerne la rédaction des conclusions du rapport, on décida que, lorsqu'il s'agira d'élaborer des conclusions concernant chaque pays centre-américain, son représentant pourra, s'il n'est pas d'accord avec celles-ci, faire état de sa position.

V. Modèle pour les futurs rapports des gouvernements centre-américains à l'intention de la CIVS

La commission approuva le modèle des rapports périodiques des gouvernements de l'Amérique centrale à l'intention de la CIVS, relatifs au respect de leurs engagements contenus dans la procédure de Guatemala, modèle recommandé par les représentants *ad hoc* et figurant dans le document IV.CIVS/3/Rev.2.

VI. Autres affaires

1. La CIVS demanda aux cinq gouvernements centre-américains de faire parvenir aux membres de la commission la documentation de base susceptible de faciliter la tâche de contrôle de la CIVS, y compris les textes des constitutions nationales, la législation pénale et tout autre matériau législatif qui pourrait être pertinent. Cette remise de documents devrait s'effectuer, si possible, avant le 10 décembre 1987.

2. La CIVS souligna l'importance de la réunion des représentants des gouvernements centre-américains qui, avec la participation du groupe de Contadora, aura lieu au cours de la semaine suivante en la ville de Caracas, dans le but de poursuivre les négociations prévues au numéro 7 de la procédure de Guatemala et portant sur les points en instance d'accord en matière de sécurité, de vérification et de contrôle et figurant au projet d'«Acte de Contadora pour la paix et la coopération en Amérique centrale».

[Texte espagnol non reproduit]

Annexe 3 b) 9

Rapport final de la commission internationale de contrôle et de suivi sur les progrès réalisés dans l'exécution des accords de la procédure en vue de parvenir à une paix ferme et durable en Amérique centrale

1. La commission internationale de contrôle et de suivi de la procédure de Guatemala a recueilli l'aspiration manifeste des peuples centre-américains à la paix, leur souhait profond de voir s'instaurer ou, le cas échéant, se perfectionner, des régimes démocratiques, pluralistes et participatifs qui, outre qu'ils émanent de la volonté librement exprimée par les urnes, garantissent effectivement la pleine jouissance des droits de l'homme, le développement économique et le dépassement de structures sociales iniques et anachroniques, ainsi que le droit légitime de décider de leur propre destinée, affranchie des ingérences étrangères. Le désir ardent des peuples de l'Amérique centrale de parvenir à la paix et à la démocratisation politique, économique et sociale se voit entravé par une lutte géopolitique qui ne les concerne pas et par des intérêts hégémoniques indifférents et étrangers à leurs aspirations légitimes.

2. Dans l'espoir de contribuer à satisfaire ces légitimes aspirations, qui sont le fondement sous-jacent des engagements d'Esquipulas II, la CIVS souhaite donner les précisions suivantes en ce qui concerne le respect, par les cinq gouvernements centre-américains, des engagements qu'ils ont contracté en signant la procédure de Guatemala visant à instaurer une paix ferme et durable dans la région.

3. Les cinq pays centre-américains, en dépit de certaines réserves initiales, se sont acquittés de l'engagement, figurant dans la procédure, de créer des commissions nationales de réconciliation.

4. Il n'y a pas eu uniformité d'interprétation dans les cinq pays, ni sur les critères à adopter pour composer les CNR, ni en ce qui concerne la prise de décision en leur sein. Il conviendrait que les difficultés apparues fussent surmontées.

5. Dans l'esprit de réconciliation qui sous-tend la procédure, il est souhaitable que, dans les pays «où se sont produites de profondes divisions dans la société», soient incluses parmi les membres de la CNR des person-

nalités représentant des partis politiques ou des groupements proches des forces irrégulières ou mouvements insurrectionnels, dans le but de renforcer sa mission réconciliatrice, comme c'est le cas au Nicaragua et comme ce fut le cas au El Salvador.

6. En effet, dans le cas d'El Salvador l'intégration originale reflétait les critères ébauchés au paragraphe précédent, mais le retrait de la CNR des deux représentants de partis politiques d'opposition a créé une situation imprévue qui la perturbe.

7. En ce qui concerne l'engagement d'entamer le dialogue avec tous les groupes d'opposition politique interne et avec ceux qui se sont prévalus de l'amnistie, la CIVS constata que, au Nicaragua, où il s'était engagé, le dialogue se trouve actuellement suspendu du fait du retrait des partis d'opposition. Dans le cas d'El Salvador, la CIVS a constaté que le gouvernement a dialogué avec de larges secteurs de l'opposition politique, mais que certains d'entre eux considèrent que le gouvernement a donné priorité au dialogue avec l'opposition armée. Au Honduras et au Costa Rica, selon des informations fournies par le gouvernement, pour le premier, et par des groupes d'opposition pour le second, le dialogue interne se manifeste par l'exercice d'une stricte liberté d'expression au travers des institutions politiques desdits pays, qui culmine dans des consultations électorales. D'autre part, en ce qui concerne le dialogue avec l'opposition politique, la CIVS est convaincue qu'il est nécessaire de poursuivre et d'intensifier les efforts de réconciliation nationale.

8. El Salvador, le Guatemala, le Honduras et le Nicaragua ont adopté des décrets d'amnistie, en dépit des réserves émises par le Honduras sur le fait que l'engagement lui soit applicable.

Dans le cas du Costa Rica, la CIVS ne juge pas nécessaire l'adoption d'un décret d'amnistie. Cependant, attendu que certains étrangers détenus au Costa Rica pourraient bénéficier de l'amnistie décrétée par leur pays d'origine, la CIVS recommande audit gouvernement d'étudier ces cas afin qu'ils puissent obtenir leur liberté.

9. Pour ce qui est du contenu et de la portée des décrets d'amnistie, on a noté, dans certains cas, des appréciations critiques. Dans le cas spécifique d'El Salvador, où a été décrétée une amnistie générale, fondée sur la thèse du pardon et de l'oubli, la CIVS a pris acte de ce que le décret d'amnistie a bénéficié aux prisonniers politiques, mais qu'il n'accordait qu'un délai de quinze jours aux rebelles armés pour s'en prévaloir.

10. Dans le cas du Nicaragua, bien que le gouvernement de ce pays ait adopté, pour les rebelles armés, un décret d'amnistie qui demeure en vigueur et ait édicté une grâce, l'entrée en vigueur du décret d'amnistie en faveur des prisonniers a été subordonné à l'attestation par la CIVS du respect de la cessation de l'aide aux forces irrégulières de la part des Etats de la région et extra-régionaux, ainsi que du non-usage du territoire pour déstabiliser le Nicaragua. Cette allégation du principe de la simultanéité des engagements reflète l'un des problèmes structurels de l'application de la procédure, problèmes qui sont matière à des réflexions plus poussées.

11. En ce qui concerne la sphère d'application de l'amnistie, la CIVS a enregistré des témoignages selon lesquels, dans différents pays et à des degrés divers, on a systématiquement pratiqué, durant les gouvernements précédents, l'élimination physique des membres de groupes irréguliers, ou de forces insurrectionnelles, capturés, à savoir ceux qui auraient pu se prévaloir des récents décrets adoptés par les gouvernements actuels.

12. Il faut se rappeler que le but de l'amnistie est d'ouvrir des espaces politiques dans certains pays en vue du retour à la vie démocratique des

groupes d'opposition, notamment des rebelles armés. Il est donc prématuré d'émettre un jugement définitif sur l'efficacité des décrets d'amnistie comme instrument de réconciliation nationale.

13. Le numéro 3 de la procédure de Guatemala prescrit un vaste schéma de démocratisation, difficile à atteindre dans un bref délai de cinq mois, dans une région caractérisée par une histoire troublée.

14. Il est juste de reconnaître la stabilité et le haut degré de développement des institutions démocratiques au Costa Rica.

15. Dans le cas du Nicaragua, la CIVS a pu constater que, en dépit de la gravité du harcèlement militaire que subit le pays, des actions concrètes ont été menées en vue de la mise en œuvre d'un processus démocratique. Cependant, certains porte-parole de partis d'opposition et d'organismes non gouvernementaux ont émis des opinions selon lesquelles il serait nécessaire de procéder à une différenciation plus nette entre les institutions étatiques et partisans et l'établissement de garanties plus larges pour l'exercice des droits civils et politiques.

16. Selon la grande majorité des sources d'information consultées, l'intention des chefs d'Etat centre-américains de favoriser la participation effective des divers courants d'opinion à la vie démocratique et de veiller à la protection des droits de l'homme se voit limitée, dans certains pays, par des abus de pouvoir des forces de sécurité et par l'action de groupes paramilitaires. La CIVS a reçu des plaintes pour violations des droits de l'homme commises par les forces irrégulières ou les mouvements insurrectionnels.

17. La CIVS a constaté qu'il n'existe pas d'état d'exception, de siège ou d'urgence au Costa Rica, au El Salvador, au Guatemala et au Honduras. La commission a appris qu'il existe, en El Salvador, un décret-loi qui permet aux autorités d'arrêter une personne pour plus de soixante-douze heures. Au Nicaragua, la levée de l'état d'urgence est subordonnée à l'attestation par la CIVS du respect de la cessation de l'aide apportée aux forces irrégulières par les Etats de la région et extra-régionaux, ainsi que du non-usage du territoire pour déstabiliser le Nicaragua. Le gouvernement a indiqué que, en pratique, l'état d'urgence est appliqué avec souplesse. Dans plus d'un pays, le caractère inopérant, en pratique, du recours en protection ou en *habeas corpus* fait qu'il se produit fréquemment des détentions pour des périodes plus longues et dans des conditions moins favorables que celles prévues par la loi.

18. La CIVS a suivi avec satisfaction les préparatifs en vue de l'établissement du Parlement centre-américain dans les cinq pays. La création de cette importante institution représentera une avancée significative dans le processus de démocratisation et renforcera l'intégration politique, économique et sociale entre les pays de la région.

19. Malgré les efforts réalisés, l'absence de négociation d'un cessez-le-feu, dans les pays dans lesquels opèrent des forces irrégulières ou des mouvements insurrectionnels, et l'intensification des actions militaires, avec les pertes humaines et matérielles qu'elles entraînent, et ce après la signature d'Esquipulas II, constituent de sérieux motifs de préoccupation.

20. Les appels aux forces irrégulières ou aux mouvements insurrectionnels en vue d'arrêter un cessez-le-feu, ou, le cas échéant, de se prévaloir de l'amnistie et s'intégrer aux processus politiques dans leur pays respectif, ainsi que l'envisage la procédure de Guatemala, n'ont pas eu de suites positives en El Salvador, au Guatemala et au Nicaragua.

21. En dépit de l'exhortation des présidents centre-américains, les Etats-Unis poursuivent la politique et la pratique de l'assistance, militaire en particulier, aux forces irrégulières qui opèrent contre le Gouvernement du Nicara-

gua. La cessation définitive de ladite assistance continue à constituer une condition indispensable au succès des efforts de paix et de la procédure dans son ensemble.

De même, on a enregistré une plainte du Gouvernement d'El Salvador selon laquelle le Nicaragua accorde secrètement une aide aux forces insurgées dans son pays et la suspension de cette aide est une condition indispensable au succès des efforts de paix de la procédure dans son ensemble. La CIVS a reçu la dénégation du Gouvernement du Nicaragua en ce qui concerne cette plainte.

22. En ce qui concerne l'engagement de ne pas utiliser le territoire d'un Etat pour en agresser un autre, la CIVS a recueilli des plaintes émanant de certains gouvernements de la région et le témoignage de sources non gouvernementales sur l'aide apportée à des forces irrégulières ou des mouvements insurrectionnels par d'autres gouvernements centre-américains, ainsi que sur l'utilisation de territoires de certains Etats pour en agresser d'autres. On a enregistré des plaintes en ce sens d'El Salvador contre le Nicaragua, et du Nicaragua contre le Honduras, El Salvador et le Costa Rica. Les gouvernements respectifs déclarèrent qu'ils ne pouvaient accepter de telles plaintes tant qu'on ne connaissait ni leur solidité ni les arguments sur lesquelles elles se fondent et exprimèrent leur volonté d'autoriser même une inspection inconditionnelle sur leur territoire. La CIVS doit signaler que l'utilisation du territoire d'Etats de la région pour en agresser d'autres, avec ou sans le consentement du gouvernement dont le territoire serait compromis, facilite l'action desdites forces ou mouvements et entrave la recherche de la paix. La CIVS n'est pas encore en mesure de vérifier les faits susdits, car elle n'a pas pu, à ce jour, installer des mécanismes d'inspection *in situ*.

23. En ce qui concerne l'exécution du mandat figurant au numéro 7 de la procédure de Guatemala, la CIVS a pris acte avec satisfaction de la réunion qui s'est tenue à Caracas le 10 décembre 1987, en application d'une décision de la commission exécutive réunie à San José les 27 et 28 octobre 1987, dans le but de poursuivre les négociations sur les aspects en instance d'accord, en matière de sécurité, de vérification et de contrôle, de l'acte de Contadora et le désarmement des forces irrégulières qui seraient disposées à se prévaloir des décrets d'amnistie. La rencontre a eu lieu avec la participation des cinq pays centre-américains et du groupe de Contadora dans l'exercice de sa fonction médiatrice.

Les résultats des délibérations permirent de préciser les domaines de référence des futures négociations, à savoir:

Engagements en matière d'armement, d'effectifs militaires et de manœuvres militaires; affaires à caractère procédural et opérationnel sur le règlement ou le statut de la commission de vérification et de suivi en matière de sécurité; et mesures en vue du désarmement des forces irrégulières.

On fixa des prévisions pour l'organisation des futurs travaux et réunions qui auront lieu dans des pays du groupe de Contadora et avec la coordination de ceux-ci. La prochaine réunion se tiendra à Panama durant la première semaine de février 1988 et la Colombie proposa d'être le siège de la rencontre suivante.

24. En matière de réfugiés, la CIVS a noté avec satisfaction que l'on a enregistré des progrès, tant dans la création de mécanismes institutionnels que dans des aspects concrets tels que la protection, l'assistance et le rapatriement volontaire, qui constituent des avancées manifestes dans la recherche de solutions humanitaires aux problèmes de la région. En ce sens, la

tenue, au cours de cette année, d'une conférence internationale sur les réfugiés centre-américains, sous les auspices des gouvernements des pays de la zone et avec la collaboration du Haut Commissariat des Nations Unies pour les réfugiés, serait une contribution significative aux efforts de paix. La situation des déplacés demeure un grand problème à caractère humanitaire, dont la solution exige des efforts complémentaires urgents. La réalisation des objectifs d'Esquipulas II contribuera notablement à la solution définitive du problème des réfugiés et des déplacés.

25. L'objectif global que renferme Esquipulas II, et consistant à parvenir à la paix par la cessation des hostilités, l'amnistie, la démocratisation, la cessation de l'aide en faveur des forces irrégulières et des mouvements insurrectionnels et le non-usage du territoire pour aggraver d'autres Etats, n'a pas été atteint à ce jour. Le fait de ne pas avoir encore atteint cet objectif n'enlève rien à la validité de la procédure de Guatemala, bien qu'il soit impératif de manifester une volonté politique permanente dans la recherche de formules visant à surmonter les obstacles.

26. A l'examen des progrès réalisés dans l'application de la procédure en vue d'instaurer une paix ferme et durable en Amérique centrale, procédure signée à Guatemala le 7 août 1987, il est fondamental de se rappeler que, ainsi que l'indique sa dénomination, elle constitue un programme d'actions faisant partie d'un processus. C'est pourquoi cent cinquante jours après la signature de l'accord, il serait aussi contraire à la vérité de déclarer qu'il n'y a pas eu de pas en avant que d'en proclamer le succès.

27. Il convient de rappeler que, de même que la détérioration intervenue dans la structure politique, économique et sociale centre-américaine ne s'est pas produite subitement, on ne peut pas, non plus, parvenir à la paix dans la région, de façon immédiate. Les facteurs en jeu sont, par nature, complexes et agissent à différents niveaux simultanément. Plusieurs des acteurs en présence sur la scène centre-américaine ne sont pas partie dans l'accord signé par les principaux intéressés que sont les chefs d'Etat de la région. L'enjeu est considérable, car il s'agit de mettre en pratique un accord intégral, universellement satisfaisant, simultanément exécutoire et contrôlable, et que, en outre, il engage ceux qui sont partie dans le conflit sans être signataires dudit accord. Il nous appartient donc, à ce niveau, non pas de déclarer le succès ou l'échec d'un processus qui est en marche, mais d'évaluer les progrès réalisés, d'identifier les tâches restant à accomplir et de suggérer les voies permettant de les poursuivre.

28. C'est pourquoi, la CIVS estime nécessaire, après avoir fait référence aux thèmes spécifiques de son mandat, de faire deux considérations de caractère général, non seulement parce qu'elles touchent au problème plus large de l'application de la procédure dans son ensemble, de la part des signataires, mais aussi parce que la CIVS juge utile de faire une contribution en ce sens.

29. Il convient de souligner l'inquiétude manifestée par plusieurs membres non centre-américains de la CIVS en ce qui concerne les modalités de participation des pays centre-américains aux tâches de contrôle, en tant que partie dans le conflit. Les présidents pourraient examiner ce sujet lors de leur prochaine réunion, afin d'établir une distinction pratique entre la participation des membres non centre-américains de la CIVS et celle des centre-américains, pour ce qui est du contrôle proprement dit. Cela ne nécessiterait pas, en principe, de modifier la lettre de la procédure. Ce sujet est également lié à un autre problème que l'on a pu effleurer au cours des réunions de la CIVS, celui de l'absence d'un cadre plus efficace pour la prise de décisions.

30. L'une des premières considérations faites par la CIVS fut la nécessité d'instaurer des modalités pratiques de contrôle des accords figurant dans la procédure de Guatemala. Pour le contrôle des engagements contractés en matière de sécurité, à savoir: le cessez-le-feu, la non-utilisation des territoires pour agresser d'autres Etats et la cessation de l'aide apportée aux forces irrégulières et aux mouvements insurrectionnelles, la nécessité d'une inspection *in situ* est une condition *sine qua non* du contrôle, si l'on veut que celui-ci soit empreint d'objectivité, d'indépendance et d'efficacité. Tous les membres de la CIVS acceptent ces prémisses de base et personne ne discute la nécessité que soit dûment établi ce mécanisme afin que puissent débiter le contrôle et le suivi.

31. En ce sens, les ministres des relations extérieures, membres de la CIVS, s'accordèrent à attirer l'attention de MM. les chefs d'Etat centre-américains sur le fait qu'il convenait de solliciter, auprès des secrétaires généraux des Nations Unies et de l'Organisation des Etats Américains, l'envoi urgent d'une mission technique dans la région, dans le but de mettre la dernière main aux détails de mise en place, dans les cinq pays centre-américains, d'unités mobiles dotées des caractéristiques ébauchées dans le second rapport de la mission.

32. En ce qui concerne les engagements en matière de démocratisation — comportant, entre autres, le respect des droits de l'homme ainsi que l'élection libre des autorités nationales et du Parlement centre-américain —, de réfugiés et de déplacés, la CIVS a considéré que sa tâche de contrôle et de suivi pourrait être soutenue par l'action d'organisations internationales.

33. La CIVS estime pertinent d'observer qu'il existe d'autres facteurs d'ordre structurel qui pourraient affecter l'application de la procédure dans son ensemble. Ces facteurs sont exposés ci-après.

34. La nature des accords d'Esquipulas II consiste, plus qu'en une obligation juridique formelle, en un engagement politique qui les sous-tend et dans le fait indiscutable qu'ils bénéficient d'un large soutien populaire et d'un appui international unanime. Cependant, la procédure pourrait être complétée par des éléments facilitant sa mise en œuvre, tels qu'un plan d'exécution et un calendrier d'accomplissement des engagements.

35. Il est presque de notoriété publique que l'élément qui permit à la procédure de Guatemala d'être adoptée fut le fait que s'aplanirent entre les parties les différends relatifs à la séquence d'accomplissement des différents engagements, lorsqu'il fut décidé que ceux-ci s'accompliraient simultanément. La communauté internationale accueille avec admiration cette formule qui tranchait des différends apparemment irréconciliables, relatifs au problème central de la préséance entre la pacification et la démocratisation.

36. Les divergences d'opinion, portant précisément sur la séquence des opérations, ont fait apparaître la réalité selon laquelle l'accomplissement simultané, s'il n'est pas articulé au-delà du cadre général prévu dans Esquipulas II, peut difficilement se concrétiser. Cela est un problème urgent et de fond qui, malgré les efforts accomplis, n'est pas encore résolu.

37. L'esquisse d'un plan chronologiquement ordonné, en vue de l'exécution de la procédure, suppose une négociation. Cette tâche aussi complexe qu'inéluctable pourrait trouver une impulsion décisive dans l'opportunité qu'offre la réunion des présidents à San José.

[Texte espagnol non reproduit]

Annexe 3 c) 1

Ministère des relations extérieures
Réunion de ministres des relations extérieures de l'Amérique centrale
Commission exécutive
Esquipulas II
San Salvador, 19-20 août 1987
Communiqué conjoint

Les ministres des relations extérieures du Costa Rica, du Guatemala, du Honduras, du Nicaragua et d'El Salvador, réunis en la ville de San Miguel (République d'El Salvador), en vue de donner suite à l'engagement figurant au numéro 11 de l'accord des présidents centre-américains intitulé «Procédure pour instaurer une paix ferme et durable en Amérique centrale», conclurent, dans un climat de cordialité et de franchise, les accords suivants:

Premièrement: Les ministres des relations extérieures se constituèrent en commission exécutive et signèrent l'acte d'installation correspondant.

Deuxièmement: A chaque réunion de la commission, le pays d'accueil assumera la présidence *pro tempore* et organisera et fournira le secrétariat.

La prochaine réunion de la commission exécutive aura lieu en la ville de Managua (Nicaragua) dans les trente prochains jours. Les sièges des réunions subséquentes seront fixés dans un strict ordre alphabétique, règle qui sera observée dans les autres activités de la commission exécutive.

Troisièmement: Ils adressèrent une lettre aux secrétaires généraux des Nations Unies et de l'Organisation des Etats américains ainsi qu'aux ministres des relations extérieures du groupe de Contadora et du groupe de soutien, en les invitant à participer à la commission internationale de contrôle et de suivi. De même, ils les prièrent de la façon la plus cordiale à procéder à l'installation formelle de ladite commission au cours de la réunion conjointe qui se tiendra à Caracas le 22 août prochain.

Ils s'adressèrent également aux pays membres des Communautés européennes en sollicitant leur précieux concours afin d'obtenir un soutien intégral et extraordinaire permettant d'améliorer la qualité de la vie des peuples centre-américains.

Quatrièmement: Outre les commissions qui ont été organisées, la commission exécutive pourra créer toutes les commissions spécifiques qui seront nécessaires à la réalisation de ses objectifs.

Cinquièmement: Aux fins de tenir l'engagement figurant au numéro 7 du document adopté lors du sommet de Guatemala, ils décidèrent de rencontrer, en temps utile, le groupe de Contadora, afin de poursuivre les négociations sur les points en instance d'accord, en matière de sécurité, de vérification et de contrôle, figurant au projet d'acte de Contadora pour la paix et la coopération en Amérique centrale.

Sixièmement: Les ministres des relations extérieures centre-américains reçurent une proposition présentée par le Gouvernement d'El Salvador et contenant des règles de base en vue de l'exécution des accords, proposition qui sera étudiée par chacun des ministres des relations extérieures et discutée lors de la prochaine réunion.

Septièmement: Les ministres des relations extérieures du Costa Rica, du Guatemala, du Honduras et du Nicaragua adressèrent leurs remerciements au peuple et au Gouvernement d'El Salvador et spécialement à M. le ministre

des relations extérieures, Ricardo Acevedo Peralta, pour l'hospitalité et les marques d'attention reçues durant leur séjour en El Salvador et qui ont contribué de façon significative au succès de la réunion.

San Salvador, le 20 août 1987.

Direction générale de la culture et de la communication.

[Texte espagnol non reproduit]

Annexe 3 c) 2

Réunion de ministres des relations extérieures d'Amérique centrale

Première réunion de la commission exécutive

Esquipulas II

San Salvador, 19-20 août 1987

Acte d'installation de la commission exécutive

Les ministres des relations extérieures des Républiques du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua, réunis en la ville de San Salvador (République d'El Salvador) les 19 et 20 août 1987, afin de donner suite aux stipulations du numéro 11 du document «Procédure pour instaurer une paix ferme et durable en Amérique centrale», signé par les présidents des pays centre-américains lors du sommet de Guatemala le 7 août 1987, décidèrent de:

1. S'installer en qualité de commission exécutive.
2. Entreprendre l'exercice des attributions et responsabilités fixées au premier paragraphe du numéro 11 dudit document, qui stipule:

«Dans un délai de quinze jours à compter de la signature du présent document, les ministres des relations extérieures d'Amérique centrale se réuniront en qualité de commission exécutive pour régler, impulser et faciliter l'exécution des accords figurant au présent document; ainsi qu'organiser les commissions de travail afin que, à partir de cette date, se déclenchent les processus visant à l'exécution, dans les délais impartis, des engagements contractés et ce par voie de consultations, démarches et autres mécanismes qu'ils jugeront nécessaires.»

3. En foi de quoi, ont signé le présent acte d'installation, en la ville de San Salvador (République d'El Salvador), le 20 août 1987:

Ricardo ACEVEDO PERALTA,
ministre des relations extérieures
d'El Salvador;

Carlos LOPÉZ CONTRERAS,
ministre des relations extérieures
du Honduras;

Miguel d'ESCOTO BROCKMANN,
ministre des relations extérieures
du Nicaragua;

Rodrigo MADRIGAL NIETO,
ministre des relations extérieures
et des cultes du Costa Rica;

Alfonso CABRERA HIDALGO,
ministre des relations extérieures
du Guatemala.

[Texte espagnol non reproduit]

*Annexe 3 c) 3**Direction de l'information et de la presse**Ministère des relations extérieures**Deuxième réunion de la commission exécutive
des accords d'Esquipulas II**Communiqué conjoint*

La seconde réunion de la commission exécutive s'est tenue en la ville de Managua, République du Nicaragua, les 17 et 18 septembre 1987, dans un climat de cordialité et de franchise; la commission exécutive a poursuivi ses travaux conformément au premier paragraphe du numéro 11 de la «Procédure pour instaurer une paix ferme et durable en Amérique centrale».

Pendant la réunion, les ministres de la commission exécutive ont exprimé leur profonde satisfaction devant les actions qui ont été entreprises pour la mise en œuvre de la «procédure de Guatemala» et l'appui que reçoit ledit document de la part de la communauté internationale. Ils soulignèrent notamment comme des faits de grande importance l'installation à Caracas (Venezuela) de la commission internationale de contrôle et de suivi et la constitution des commissions nationales de réconciliation respectives dans les Républiques d'El Salvador, du Guatemala et du Nicaragua.

La commission exécutive a procédé à un large et fructueux échange de points de vue avec les représentants *ad hoc* de la CIVS, concernant les modalités d'exercice des fonctions de contrôle et de suivi des engagements figurant dans la «Procédure pour instaurer une paix ferme et durable en Amérique centrale». A l'issue de cette rencontre, il fut possible de déterminer un champ de convergences sur ce sujet.

La commission exécutive décida que chaque pays constituerait, s'il y a lieu, les commissions de nature interne qu'il jugera nécessaire pour mettre en œuvre les accords d'Esquipulas II.

La commission exécutive décida également de créer des sous-commissions de travail dans les zones de réfugiés et de déplacés, de simultanéité et de rédaction des textes. Elle décida également de réactiver la commission qui poursuivra les négociations sur les affaires de sécurité, de vérification et de contrôle, en instance d'accord et figurant au projet d'acte de Contadora.

La commission exécutive décida également d'élaborer des suggestions à l'intention des ministres responsables de l'intégration économique centre-américaine, afin qu'ils négocient des accords régionaux permettant d'accélérer le développement économique et social de la zone et d'engendrer une coopération internationale.

Les ministres examinèrent longuement et adoptèrent un document comportant les fonctions qui leur incombent en qualité de commission exécutive.

Il fut finalement décidé que la prochaine réunion de la commission exécutive se tiendrait en la ville de San José (Costa Rica) les 27 et 28 octobre 1987.

Les ministres des relations extérieures du Costa Rica, d'El Salvador, du Guatemala, du Honduras témoignèrent leur gratitude au peuple et au

Gouvernement du Nicaragua pour leur cordiale hospitalité et les marques d'attention qu'ils ont reçues pendant leur séjour à Managua.

Managua, le 18 septembre 1987.

Eugenico CASTRO CLARAMUNT,
Directeur de l'information
et de la presse.

[Texte espagnol non reproduit]

Annexe 3 c) 4

*Troisième réunion de la commission exécutive
27-28 octobre 1987*

Résumé de presse n° 158-87.
Direction de l'information et de la presse
29 octobre.

San José — Amérique centrale — politique

Déclaration conjointe des ministres des relations extérieures centre-américains.

San José, 28 octobre. — Les ministres des relations extérieures centre-américains: Ricardo Acevedo (El Salvador), Miguel d'Escoto (Nicaragua), Rodrigo Madrigal Nieto (Costa Rica), Carlos López Contreras (Honduras) et Adolfo Cabrera (Guatemala) ont prononcé la déclaration suivante à l'issue de leur réunion de deux jours à San José, réunion destinée à «évaluer Esquipulas II», document signé par les cinq présidents de la région, le 7 août 1987.

Les cinq ministres des relations extérieures forment la «commission exécutive» d'Esquipulas II.

Le libellé en est le suivant:

«La commission exécutive de la «Procédure pour instaurer une paix ferme et durable en Amérique centrale», en application des obligations que lui assigne le paragraphe premier du numéro 10 dudit instrument et dans l'exercice des fonctions approuvées lors de sa réunion de Managua, les 17 et 18 septembre 1987, a tenu sa troisième réunion de travail en la ville de San José, République du Costa Rica, les 27 et 28 octobre 1987.»

Les membres de la commission exécutive fournirent des informations étendues et détaillées sur l'avancement de la mise en œuvre, dans leur pays respectif, des engagements figurant dans l'accord d'Esquipulas II, prirent acte avec satisfaction des progrès réalisés, échangèrent leurs points de vue à ce sujet et firent état de la nécessité de poursuivre le processus.

La commission exécutive prit connaissance du document préparé par la sous-commission de simultanéité, réunie en la ville de Guatemala le 16 octobre 1987, en débattit, l'adopta et fixa le 5 novembre comme date à laquelle entrèrent en vigueur simultanément, de façon publique, les engagements

d'amnistie, de cessez-le-feu, de démocratisation, de cessation de l'aide apportée aux forces irrégulières ou aux mouvements insurrectionnels et de non-usage du territoire pour agresser d'autres Etats.

En conséquence, les pays de l'Amérique centrale, en accord avec le numéro 10 de la «procédure de Guatemala» et pour que la commission internationale de contrôle et de suivi puisse émettre des rapports dans les délais impartis, ratifient sa décision afin que, à partir de ce moment, puisse s'effectuer le contrôle *in situ* correspondant.

La commission décida de créer une sous-commission économique-sociale chargée de lui proposer les suggestions qu'elle devra formuler aux ministres responsables de l'intégration économique centre-américaine, conformément aux décisions adoptées à la réunion de Managua, Nicaragua, les 17 et 18 septembre; cette sous-commission servira de liaison entre la commission exécutive et lesdits ministres.

La commission exécutive décida que la sous-commission de sécurité se réunira dans les prochains quarante-cinq jours, en la ville que ladite commission déterminera d'un commun accord, avec la participation du groupe de Contadora dans l'exercice de sa fonction médiatrice, dans le but de poursuivre les négociations sur les points en instance d'accord, en matière de sécurité, de vérification et de contrôle, figurant dans le projet d'acte de Contadora.

Les membres de la commission exécutive prirent connaissance d'un projet de texte visant à solliciter la cessation de l'aide apportée aux forces irrégulières ou aux mouvements insurrectionnels, conformément à ce que prévoit le numéro 5 du document d'Esquipulas II, qui pourrait servir de modèle à la requête qui doit être présentée individuellement par chacun des pays centre-américains, dans le délai imparti.

La commission décida également de proposer aux présidents centre-américains de tenir leur prochaine réunion, à partir du 15 janvier 1988, en la ville de San José, Costa Rica.

On résolut de tenir la prochaine réunion de la commission exécutive en la ville de San Salvador, à une date qui sera déterminée d'un commun accord.

Fait à San José, le 28 octobre 1987.

Direction de l'information et de la presse.

Sélection des informations par:

Eugenio Castro C., directeur.

[Texte espagnol non reproduit]

Annexe 3 c) 5

El Pais, mardi 17 novembre 1987.

*Le leader sandiniste qualifie de «très intéressante»
la proposition hondurienne*

«LE HONDURAS PROPOSE AU NICARAGUA DE FIXER
UNE «LIGNE DE SÉCURITÉ» FRONTALIÈRE», DIT ORTEGA

Washington/San Salvador.

Le président nicaraguayen, Daniel Ortega, a révélé que le Honduras a

proposé à son pays de démanteler les campements de la «contra» situés sur son territoire, en échange de ce que l'armée sandiniste n'effectuerait pas de nouvelles incursions contre les rebelles sur le territoire voisin. Si l'on parvenait à un accord, les deux nations établiraient également une «ligne de sécurité» sur la frontière, déclara Ortega lors d'une interview publiée par l'hebdomadaire nord-américain *Newsweek*.

Selon Ortega, la proposition du Honduras consiste dans le retrait de toute présence militaire nord-américaine, le démantèlement des bases de la «contra» sur son territoire et le désarmement des rebelles. En échange, le Nicaragua devrait s'engager à suspendre ses incursions militaires en territoire hondurien à l'encontre de groupes rebelles, reculer son artillerie lourde à une certaine distance de la frontière et établir des régulations au niveau de l'armement.

La proposition, qualifiée de «très intéressante» par Ortega, inclut également la création d'une «ligne de sécurité» le long de la frontière, avec la présence de représentants de pays tiers. De même, Ortega a déclaré que le Honduras se proposait comme siège pour un éventuel dialogue direct entre le gouvernement de Managua et l'administration des Etats-Unis.

Selon des sources diplomatiques et politiques citées hier par *The New York Times*, l'aide nord-américaine à la «contra», qui transite par le Honduras, pourrait être suspendue de façon draconienne à partir de l'année prochaine. S'il en était ainsi, affirment ces sources, la présence de la «contra» au Honduras serait «économiquement insupportable» pour le président José Azcona.

Le Honduras, qui ne reconnaît pas officiellement la présence des campements de «contras» sur son territoire, recevra prochainement la visite de la commission internationale de contrôle des accords d'Esquipulas II afin de vérifier que ce pays n'apporte pas son appui aux rebelles antisandinistes.

Entre-temps, on attend avec une certaine préoccupation, en El Salvador, le retour au pays des dirigeants du Front démocratique révolutionnaire (FDR), Guillermo Ungo et Rubén Zamora, car on craint qu'il n'y ait pas de mesures de sécurité suffisantes pour leur vie, sécurité que personne ne semble pouvoir garantir, déclare José Comas.

Il y a une semaine, on découvrit, en El Salvador, les cadavres de deux hommes qui avaient été sauvagement torturés. Sur la peau des victimes, leurs assassins avaient écrit en lettres rouges les caractères FDR. Le message ne peut être plus clair pour les dirigeants de FDR, front politique allié à la guérilla du Front Farabundo Martí de libération (FMLN).

A Managua, Rubén Zamora, vice-président du FDR, a affirmé qu'il avait parfaitement entendu le message des escadrons de la mort, malgré quoi il se déclara convaincu que «l'heure de poursuivre la lutte politique à l'intérieur du pays était arrivée».

D'autre part, un rapport des commissions de contrôle des armes et de la politique extérieure du Congrès nord-américain, qui sera présenté officiellement aujourd'hui, affirme que les trois quarts des 429 millions de dollars (environ 50 000 millions de pesetas) remis par les Etats-Unis au El Salvador pour «la stabilisation, la restauration et l'aide humanitaire» ont été utilisés pour financer la guerre contre les rebelles.

[Texte espagnol non reproduit]

Annexe 3 c) 6

Ambassade du Honduras,
La Haye.

Communiqué de presse n° 012-88

La direction de l'information et de la presse du ministère des relations extérieures porte à la connaissance de l'opinion publique la déclaration conjointe de la cinquième réunion des ministres des relations extérieures d'Amérique centrale, qui s'est tenue à San Salvador les 16 et 17 février 1988.

Lors de cette réunion, les ministres des relations extérieures d'Amérique centrale désignèrent le ministre des relations extérieures du Honduras, M^e Carlos López Contreras, comme leur porte-parole lors de la réunion qui se tiendra prochainement à Hambourg (RFA), avec la Communauté économique européenne.

La déclaration conjointe signée à San Salvador dit textuellement:

«La commission exécutive composée des ministres des relations extérieures du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua s'est réunie en la ville de San Salvador le 17 février 1988, dans le but d'exercer les mandats figurant dans la procédure de Guatemala et dans la déclaration des présidents centre-américains, signée à Alajuela, Costa Rica, le 16 janvier 1988.»

A l'issue de leurs délibérations, qui se sont déroulées dans un climat de grande cordialité, la commission exécutive décida de:

1. Assumer la fonction principale de vérification, de contrôle et de suivi de tous les engagements figurant dans la procédure de Guatemala et dans la déclaration signée à Alajuela.

2. Promouvoir la coopération des Etats régionaux ou extra-régionaux et des organismes à l'impartialité et aux capacités techniques attestées, qui auraient manifesté leur désir de collaborer au processus de paix en Amérique centrale.

3. Réaffirmer l'engagement à la démocratisation et l'importance que revêt le contrôle en la matière, afin d'atteindre les objectifs figurant dans la déclaration d'Alajuela¹.

4. Demander aux commissions nationales de réconciliation de présenter, à l'occasion de la prochaine réunion de la commission exécutive, des rapports sur la mise en œuvre des engagements qu'il leur incombe de constater conformément à la procédure de Guatemala et à la déclaration d'Alajuela des présidents des pays centre-américains.

5. Communiquer leur décision de parvenir, au cours de la prochaine réunion de la commission exécutive à Guatemala, à des accords liés à la détermination des modalités, ainsi que des pays et organismes internationaux susceptibles de participer au contrôle spécifique des engagements relatifs à la cessation de l'aide aux groupes irréguliers ou aux forces insurrectionnelles et au non-usage du territoire pour aggraver d'autres Etats.

6. Inclure, à l'ordre du jour de la prochaine réunion de la commission exécutive à Guatemala, les propositions présentées par le Nicaragua, qui

¹ Appelée également «Déclaration de San José du 16 janvier 1988», Nations Unies, doc. A/42/911-S/19447.

comportent: un tableau synoptique des engagements d'Esquipulas II et des propositions d'officialisation de celui-ci par la commission exécutive, un document de réflexion sur le rapport de la CIVS et une proposition visant à une nouvelle organisation des tâches de contrôle et de suivi ainsi qu'une proposition de protocole sur la vérification *in situ*.

7. Inclure également à l'ordre du jour de ladite réunion la proposition présentée par le Honduras à la dix-septième session de l'Assemblée générale de l'Organisation des Etats américains¹.

8. Convoquer la commission de sécurité pour que, au plus tard le 15 mars, elle poursuive les négociations renouées à Caracas, Venezuela, le 10 décembre 1987, conformément au numéro 7 de la procédure de Guatemala.

9. Agréer largement le soutien apporté par la Communauté européenne au processus de paix en Amérique centrale et souligner l'importance qu'elle accorde au renforcement de processus démocratique et pluralistes en Amérique centrale ainsi qu'à la coopération, avec les pays centre-américains, aux efforts en faveur de la paix.

10. Considérer comme agréés les projets de communiqués communs en matière politique et économique préparés par les commissions techniques respectives, en vue de les présenter à la Communauté économique européenne, au cours de la prochaine réunion qui doit se tenir en la ville de Hambourg, du 29 février au 1^{er} mars 1988, attendu que ces projets considèrent les espaces fondamentaux de coopération de l'Europe communautaire, en vue de la consolidation de la paix, la stabilité, le renforcement du droit international, les principes démocratiques, les droits de l'homme, la justice sociale et le développement intégral de la région.

11. Adresser aux forces irrégulières ou aux mouvements insurrectionnels une véhémement exhortation à se prévaloir de l'amnistie et à s'intégrer au dialogue et à la vie démocratique, par les mécanismes déjà engagés.

12. Remercier le peuple et le gouvernement d'El Salvador pour l'hospitalité et les facilités accordées pendant leur séjour dans ce pays, qui ont contribué de façon significative au succès de la réunion.

San Salvador, le 17 février 1988.

Tegucigalpa, le 18 février 1988.

Direction de l'information et de la presse,
Ministère des relations extérieures, République du Honduras.

[Texte espagnol non reproduit]

Annexe 3 c) 7

Lettre datée du 11 avril 1988, adressée au Secrétaire général par les représentants du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua auprès de l'Organisation des Nations Unies

Nous avons l'honneur de vous faire tenir ci-joint le texte de l'accord adopté à Guatemala, le 7 avril 1988, à l'occasion de la cinquième réunion de la commission exécutive créée en vertu des accords d'Esquipulas II et

¹ Distribuée comme annexe à l'intervention de l'agent, lors de l'audience orale du 13 juin 1988 (voir *supra*, p. 140-141).

composée des ministres des relations extérieures du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua.

Nous vous serions obligés de bien vouloir faire distribuer le texte de la présente lettre et de son annexe comme document officiel de l'Assemblée générale à sa quarante-deuxième session, au titre du point 34 de l'ordre du jour, et du Conseil de sécurité.

L'ambassadeur,
représentant permanent du Costa Rica,
(Signé) Carlos José GUTIERREZ.

L'ambassadeur,
représentant permanent d'El Salvador,
(Signé) Roberto MEZA.

L'ambassadeur,
représentant permanent du Guatemala,
(Signé) Fernando ANDRADE-DIAZ-DURAN.

L'ambassadeur,
représentant permanent du Honduras,
(Signé) Jorge Ramón HERNANDEZ ALCERRO.

L'ambassadeur,
chargé d'affaires par intérim du Nicaragua,
(Signé) Julio ICAZA GALLARD.

Annexe

Accord adopté par la commission exécutive créée en vertu des accords d'Esquipulas II, à sa cinquième réunion, tenue à Guatemala le 7 avril 1988

La commission exécutive, composée des ministres des relations extérieures du Costa Rica, d'El Salvador, du Guatemala, du Honduras et du Nicaragua, s'est réunie à Guatemala, les 23 et 24 mars et le 7 avril 1988, afin d'examiner la situation dans la région et de déterminer les mesures qu'elle devrait appliquer ou recommander pour faire en sorte que les engagements contenus dans le processus de Guatemala et dans la déclaration commune des présidents des Etats d'Amérique centrale, adoptée à Alajuela le 16 janvier 1988, continuent d'être exécutés.

A l'issue de ses travaux, la commission exécutive est convenue:

1. De créer, conformément aux dispositions du processus à suivre pour instaurer une paix stable et durable en Amérique centrale et de la déclaration commune des présidents des Etats d'Amérique centrale, le mécanisme de vérification de contrôle et de suivi du respect des engagements souscrits au titre de ces accords;

Les commissions nationales de réconciliation vérifieront que ces engagements sont respectés dans les domaines de compétence qui leur ont été assignés en vertu du processus de Guatemala et de la déclaration d'Alajuela, que ce soit par des inspections sur place ou par tout autre moyen qu'elles jugeront utile et nécessaire. Les commissions nationales de

réconciliation rendront compte chaque mois de leurs travaux aux gouvernements des Etats d'Amérique centrale, qui les examineront au sein de la commission exécutive;

S'agissant des engagements en matière de sécurité, la commission exécutive sollicitera, par l'intermédiaire du Secrétaire général de l'Organisation des Nations Unies, l'aide d'un groupe technique d'appui, composé d'experts gouvernementaux du Canada, de l'Espagne et de la République fédérale d'Allemagne, pays qui ont exprimé le désir de collaborer au processus de paix en Amérique centrale, afin de mettre en place les mécanismes de vérification, de contrôle et de suivi;

Lorsqu'il aura été créé à la demande de la commission exécutive, le groupe technique d'appui arrêtera ses méthodes de travail, qu'il communiquera pour examen à la commission exécutive. En s'acquittant de sa tâche, le groupe restera en contact direct avec les autorités désignées par les gouvernements respectifs de la région. Il rendra compte chaque mois des résultats de ses travaux à la commission exécutive, qui les examinera et, le cas échéant, présentera des observations à leur sujet;

La commission exécutive décide également, au nom des gouvernements qui la composent, de conclure un traité d'amitié et de coopération régionale, lequel devra être signé lors de la sixième réunion de la commission exécutive, qui doit se tenir en mai prochain dans la République du Honduras: il y sera stipulé, entre autres principes fondamentaux, que les parties prennent l'engagement ferme et irrévocable de toujours recourir aux procédures de règlement pacifique des différends, et de s'abstenir d'employer la force ou tout autre moyen de coercition, afin de garantir ainsi dans les meilleures conditions possibles la coexistence entre leurs peuples.

A cet effet, les ministres des relations extérieures s'engagent à désigner, dans les huit jours à venir, les fonctionnaires de leurs pays qui participeront au groupe technique chargé de négocier les termes du traité en question;

Compte tenu des accords adoptés à la présente réunion, auxquels les ministres des relations extérieures reconnaissent une validité et une force spéciales, et compte tenu également des progrès réalisés dans le cadre du processus de Guatemala, le ministre des relations extérieures du Nicaragua déclare que lorsque les objectifs fixés pour la sixième réunion de la commission exécutive au Honduras auront été atteints, ledit processus aura été renforcé, les mesures visées étant de nature à contribuer sensiblement à la restauration de la confiance entre les pays de la région, et qu'en conséquence il s'engage à informer la Cour internationale de Justice du retrait par le Gouvernement du Nicaragua de l'action intentée le 8 juillet 1986 contre le Gouvernement du Honduras, et ce au plus tard le jour où se tiendra la sixième réunion de la commission exécutive, prévue pour le mois de mai prochain dans la République du Honduras;

2. De lancer un appel pressant aux forces armées irrégulières et aux mouvements insurrectionnels pour que leurs membres se préparent sérieusement, en utilisant les mécanismes déjà mis en place dans le cadre du processus de Guatemala, à conclure un cessez-le-feu, afin de participer aux processus démocratiques, authentiques et pluralistes, étant entendu que leur seront pleinement garantis le droit à la vie et la liberté sous toutes ses formes — y compris l'entière jouissance de leurs droits civils et politiques;

3. De demander à nouveau de la façon la plus énergique aux gouvernements des pays de la région et extérieurs à la région qui accorderaient, ouvertement ou secrètement, une aide ou un soutien quelconque aux groupes d'insurgés ou aux forces irrégulières d'y mettre immédiatement fin, une telle

mesure étant indispensable à l'instauration d'une paix stable et durable dans la région. N'est pas visée par la présente disposition l'aide humanitaire envisagée dans les accords d'Esquipulas II;

4. De souligner que la préoccupation constante des pays d'Amérique centrale a été d'obtenir, dans des conditions appropriées, des ressources suffisantes pour assurer leur développement intégral, en tant que contribution effective à l'instauration de la paix et au renforcement de la démocratisation de leurs peuples;

Ces pays se félicitent donc que le Secrétariat général de l'Organisation des Nations Unies ait présenté les bases d'un « plan spécial de coopération pour l'Amérique centrale », comme suite au paragraphe 6 de la résolution 42/1 de l'Assemblée générale des Nations Unies;

De demander en conséquence que l'on étudie immédiatement ce plan, afin de trouver les sources financières indispensables pour concrétiser les principes énoncés dans ladite résolution. L'approbation de ce plan sera un facteur déterminant de développement et de paix dans les cinq pays d'Amérique centrale;

La Commission considère en outre qu'il est particulièrement important que ces pays participent pleinement et directement à l'établissement des priorités et à l'exécution même du plan;

5. D'exprimer à nouveau sa profonde préoccupation devant le nombre important de réfugiés et de personnes déplacées dans la région, du fait de la situation que connaît l'Amérique centrale, et, conformément à la recommandation du sous-comité des réfugiés et des personnes déplacées, de convoquer à bref délai une conférence internationale sur les solutions en faveur des réfugiés d'Amérique centrale, avec le concours du HCR, et d'inviter les autres pays touchés directement par ce problème à appuyer sans réserve cette convocation;

6. Que toutes les dispositions figurant dans la présente déclaration commune seront confirmées lors de la prochaine réunion qui se tiendra dans la République du Honduras, étant donné que des consultations devront être menées avec les pays invités et que les mécanismes de vérification devront être mis en place;

7. De remercier le peuple et le Gouvernement du Guatemala de leur hospitalité fraternelle et du concours qu'ils ont apporté aux membres de la commission exécutive et à ses délégations pendant leur séjour au Guatemala, ce qui a beaucoup contribué au succès de la réunion.

Annexe 3 c) 8

El Pais, vendredi 10 juin 1988.

SANDINISTES ET « CONTRA » SUR LE POINT DE SIGNER À MANAGUA UN ACCORD DE PAIX

Antonio Cano, envoyé spécial (Managua).

Tout était négocié, discuté et prêt pour que, à la dernière heure de la soirée d'hier, le Gouvernement du Nicaragua et la Résistance nicaraguayenne (RN) signent un accord pour mettre fin à une guerre qui dure depuis sept ans. Les deux parties s'accordaient à dire, hier, avant le dernier jour des conversations, que la signature ne dépendait que d'un acte de volonté politique. Dans les dernières heures, il s'est agi du calendrier de remise des armes de la « contra » que l'on pourrait compléter cette année.

Le ministre de la défense nicaraguayen, Humberto Ortega, déclara au début de la dernière réunion que, « bien qu'il subsiste encore des tensions obstructionnistes au sein et à l'extérieur de la réunion, le gouvernement tentera aujourd'hui même de parvenir à la signature d'un accord définitif ou, pour le moins, de différents accords minimaux ». La nuit précédente, le porte-parole de la « contra », Bosco Matamoros, déclara qu'il y avait eu « une discussion substantielle » sur la réintégration de la RN à la vie politique du pays et qu'il dépendait de « la volonté politique du gouvernement que l'on parvienne à des résultats ».

Le gouvernement arriva à la dernière réunion avec un calendrier précis de désarmement, regroupant une grande partie des exigences de la « contra ». La première est que, en cas de signature d'un accord, 200 ex-gardes somozistes seront mis en liberté à partir d'aujourd'hui même, et dans un délai de dix jours.

Phases de l'accord

Les phases du programme, selon ce qu'a expliqué Ortega, sont les suivantes :

- Le 16 juin, l'armée se retire des sept zones destinées à l'emplacement des forces de la RN.
- Le 5 juillet, la « contra » entre dans ces zones.
- Le 12 juillet, une commission de contrôle composée du secrétaire général de l'OEA, Joao Baena Soares, et par l'archevêque de Managua, Miguel Obando y Bravo, doit attester que toutes les forces de la RN sont dans les zones de cessez-le-feu.
- Ce même jour commence la fourniture d'une aide humanitaire à la « contra », par l'intermédiaire de la Fondation panaméricaine pour le développement.
- Le 12 également, commence le dialogue national pour les réformes politiques avec la participation de huit représentants de la RN.
- A cette même date, sont mis en liberté cinquante pour cent des prisonniers de la « contra » et quatre cents autres ex-gardes somozistes, ce qui équivaldrait, selon Ortega, à mille deux cents prisonniers.
- Soixante jours après le début du dialogue national, doivent être appliquées les réformes démocratiques négociées et commence le désarmement de la « contra » et sa réintégration dans la vie nationale.
- Le 28 septembre, prend fin le désarmement de quatre des sept zones de cessez-le-feu.
- Le même jour, sont libérés les cinquante pour cent restant de prisonniers de la « contra » et le reste des ex-gardes somozistes.
- Le 10 octobre, ultime étape de l'accord, s'achève le désarmement des trois zones de cessez-le-feu restantes.

Quelques heures avant ce qui pourrait être un moment historique dans ce pays, toutes les opinions indiquent que si quelqu'un ne veut pas signer l'accord maintenant, ce sera qu'il opte résolument pour la guerre. Rien n'indique, cette nuit, que cela pourrait se produire, ni les préparatifs du front sandiniste pour expliquer à sa base la nouvelle situation, ni les démarches entreprises par les dirigeants de la « contra » auprès des partis politiques légaux. Rien, sauf l'incrédulité rationnelle qui a du mal à accepter que ce qui a coûté tant de sang puisse se résoudre de façon apparemment aussi simple.

[Texte espagnol non reproduit]

Annexe 3 c) 9

El Pais, samedi 1^{er} juin 1988.

*Le gouvernement et la Résistance nicaraguayenne
ne se sont pas non plus mis d'accord sur une prochaine réunion*

LES EXIGENCES DE LA «CONTRA» FONT AVORTER
LA PAIX AU NICARAGUA

Antonio Cano, envoyé spécial (Managua).

La demande de la «contra» d'une libération immédiate de tous les prisonniers politiques, ajoutée à d'autres exigences excédant les clauses négociées à ce jour entre le gouvernement sandiniste et la Résistance nicaraguayenne (RN), a fait avorter, jeudi à la dernière heure, un accord de cessez-le-feu définitif au Nicaragua, alors que celui-ci paraissait plus proche que jamais. «Nous continuerons à défendre la bannière de la paix sur le champ de bataille», affirmait le ministre nicaraguayen de la défense, le général Humberto Ortega, après que la délégation de la RN eut rejeté une proposition de calendrier englobant une grande partie des positions soutenues jusqu'à aujourd'hui par les rebelles.

La RN a annoncé avec «consternation» l'impossibilité d'obtenir un accord, mais a assuré que ses troupes ne reprendraient pas les opérations militaires offensives.

Les deux délégations ne parvinrent même pas à se mettre d'accord sur la convocation d'une prochaine réunion, qui demeure en suspens. L'un des observateurs de ces conversations, le secrétaire général de l'Organisation des Etats américains (OEA), Joao Baena Soares, déclara qu'il ne pouvait se montrer optimiste, mais qu'il avait bon espoir que le processus de négociation ne s'interromprait pas.

Le dirigeant social-démocrate allemand, Hans Joergen Wischewski, qui participe en qualité d'assesseur de la délégation du gouvernement de Managua, indiqua que jamais, malgré sa grande expérience des négociations — il prit part, entre autres, aux conversations entre le Gouvernement français et le Front de libération national algérien — il n'avait rencontré des gens moins sérieux que la «contra».

Réaction de la Maison Blanche

«La Maison Blanche a, hier, rendu responsable le gouvernement sandiniste de l'échec des conversations de paix et a indiqué qu'une nouvelle aide militaire à la «contra» continuait à constituer une possibilité», informe l'agence Reuter.

Lorsque ont échoué les négociations de paix, tous les points nécessaires à un accord avaient déjà été négociés. Le gouvernement sandiniste avait déjà accepté les conditions exigées pour que soit instauré au Nicaragua un régime démocratique. Il y avait déjà sur la table un calendrier dans lequel la «contra» n'avait qu'à déposer les armes après que les prisonniers eurent été libérés et les réformes politiques négociées et fixées. Il ne manquait plus qu'à apposer la signature sur un papier, lorsque les représentants de la RN brandirent une nouvelle proposition dont la substance est la réalisation d'une amnistie générale en cinq jours, l'ouverture de chaînes privées de télévision, la suspension du recrutement militaire et l'approvisionnement immédiat des forces de la «contra».

Cette proposition inclut des demandes telles que l'autorisation d'ouverture de bureaux de la RN, dans un délai de dix jours; l'application de mesures garantissant l'exclusion de l'armée de la vie politique, dans un délai de trente jours; la réforme de la loi des partis politiques, dans un délai de quarante jours; la promulgation d'une nouvelle loi électorale, dans le même délai; la démission de tous les magistrats de la Cour suprême, dans un délai de cinquante jours, la restitution de propriétés aux membres de la RN, dans le même délai, et le retour dans leurs foyers de recrues du service militaire, également dans un délai de cinquante jours.

Parmi les non-sens de cette proposition, on relève particulièrement le fait que soient accordés des délais aussi courts pour des mesures d'une telle envergure, tandis que la «contra» prend jusqu'au 31 janvier prochain pour procéder au désarmement de ses troupes.

Dialogue national

La majorité des demandes de démocratisation avaient déjà été acceptées par le gouvernement, mais celui-ci demandait que leur entrée en vigueur se décide après un dialogue national d'une durée de soixante jours, auquel participeraient tous les partis légaux et huit représentants de la Résistance nicaraguayenne.

Pour le général Humberto Ortega, cette nouvelle proposition signifie «une victoire du secteur guerrier de l'administration nord-américaine représenté par le colonel Enrique Bermudez» et signifie également, à son avis, qu'«Alfredo César a cessé de se trouver dans une position vacillante pour se soumettre à cette tendance». Ortega profita du climat de tension suscité par cette rupture inattendue pour annoncer qu'Alfredo César avait maintenu pendant plusieurs mois des contacts secrets avec le gouvernement.

Selon le général Ortega, César a rencontré plusieurs fois l'avocat nord-américain Paul Richler, qui fait partie de la délégation du gouvernement, pour préparer un accord de paix. Dans la dernière réunion de dialogue qui s'est tenue à Managua le 29 avril, le dirigeant de la RN a eu une entrevue secrète avec le général Ortega lui-même. Lors de ces contacts, César affirma qu'il comptait sur l'approbation de trois membres du directoire de la RN pour la signature d'un accord. César a confirmé ces contacts, mais nie qu'ils aient eu lieu dans le dos du directoire.

[Texte espagnol non reproduit]

Annexe 3 c) 10

Quatrième réunion des ministres des relations extérieures d'Amérique centrale, le 21 juin 1988

Projet de note
[ne fut pas envoyé]

Tegucigalpa, le 21 juin 1988.

Son Excellence
Javier Pérez de Cuéllar,
Secrétaire général des Nations Unies,
New York.

En application des dispositions de la cinquième réunion de la commission exécutive, qui s'est tenue en la ville de Guatemala, République du Guatemala,

le 7 avril 1988 (numéro 1 paragraphe 4 de la déclaration commune), les ministres des relations extérieures soussignés des Etats centre-américains ont l'honneur, par la présente, de demander à Votre Excellence de bien vouloir communiquer aux gouvernements du Canada, de l'Espagne et de la République fédérale d'Allemagne notre requête pour que lesdits gouvernements fassent partie du groupe technique auxiliaire prévu par ladite cinquième réunion de la commission exécutive, afin de collaborer au processus de vérification, de contrôle et de suivi des engagements adoptés dans la procédure d'Esquipulas II en matière de sécurité.

La présente requête se fonde sur les accords adoptés par MM. les présidents des Etats centre-américains, le 7 août 1987, dans la «procédure pour instaurer une paix ferme et durable en Amérique centrale» et sur la déclaration commune prononcée à l'occasion du sommet centre-américain d'Alajuela, Costa Rica, le 16 janvier 1988.

En remerciant Votre Excellence de sa précieuse collaboration dans cet effort réitéré en faveur du maintien de la paix en Amérique centrale, nous profitons de l'occasion pour lui renouveler l'assurance de notre haute et profonde considération.

Rodrigo MADRIGAL NETO,
Ministre des relations extérieures
et des cultes de la République du Costa Rica.

Ricardo ACEVEDO PERALTA,
Ministre des relations extérieures
d'El Salvador

Alfonso CABRERA HIDALGO,
Ministre des relations extérieures
de la République du Guatemala.

Carlos LÓPEZ CONTRERAS,
Ministre des relations extérieures
du Honduras.

Miguel d'ESCOTO BROCKMANN,
Ministre des relations extérieures
de la République du Nicaragua.

Sources: Bulletin d'information du ministère des relations extérieures du Honduras, 22 juin 1988.

[Texte espagnol non reproduit]

105. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

19 July 1988.

I have the honour to acknowledge receipt of Your Excellency's letter of 19 July 1988 and of your Government's written answers, therewith transmitted,

to the questions put by Members of the Court during the oral proceedings on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. A copy of those answers will be transmitted to the Agent of Nicaragua.

At the same time, I transmit to you herewith a copy of the written answers of the Government of Nicaragua, referred to in my letter of 14 July 1988. The attention of the Agent of Nicaragua has already been drawn to the absence from his Government's answers of any reference to the question which President Ruda, in his capacity as individual judge, put on 13 June 1988 (*supra*, pp. 140-141), and to which a partial answer was given orally on Nicaragua's behalf (*supra*, p. 141).

The Vice-President of the Court, Acting President, has fixed 6 p.m. on Wednesday 27 July 1988 as the time-limit for the receipt in the Registry of any comments which Your Excellency's Government may wish to make, pursuant to Article 72 of the Rules of Court.

106. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

19 July 1988.

I have the honour to transmit to Your Excellency herewith a copy of the replies of the Government of Honduras to the questions put by Members of the Court during the oral proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, received in the Registry today under cover of a letter from the Agent of Honduras, a copy of which I enclose.

The Vice-President of the Court, Acting President, has fixed 6 p.m. on Wednesday 27 July 1988 as the time-limit for the receipt in the Registry of any comments which Your Excellency's Government may wish to make, pursuant to Article 72 of the Rules of Court.

107. THE AGENT OF HONDURAS TO THE DEPUTY-REGISTRAR

27 July 1988.

I have the honour to acknowledge receipt of your letter No. 79803 of 19 July 1988, by which you transmit to me a copy of the written answers of the Government of Nicaragua to the questions posed by Members of the Court, during the oral proceedings on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

You also inform me that the Vice-President of the Court, Acting President, has fixed today as the time-limit for the receipt in the Registry of comments that we wish to make to those answers.

Therefore, and pursuant to Article 72 of the Rules of Court, the Government of Honduras presents the following comments to the answers of the Government of Nicaragua.

In page two, of the answers to Judge Guillaume's third question, the Government of Nicaragua states that Honduras has refused to sign the letter to be sent to the Secretary-General of the United Nations in order to obtain

external co-operation for certain tasks of verification and control of the Esquipulas II Procedure, and speculates on the facts, giving a distorted appreciation of the Honduran position on the matter and on the activities of the Executive Committee.

The following observations should therefore be taken into account :

1. The Executive Committee will meet again and will not be inoperative unless, of course, Nicaragua refuses to participate in it from now on. Neither is the Esquipulas II Process, on the other hand, inoperative, since most of the Agreements therein are being implemented by the Governments and the National Reconciliation Commissions, as well as through mediation by the Contadora countries.

2. There is no disagreement between the President of Honduras and its Minister of Foreign Relations on foreign policy, and this has been expressly stated by the Office of the President itself. The Nicaraguan Minister of Foreign Relations attributes to Honduran authorities statements that have not been made, and tries to distort the facts for propaganda purposes.

3. *The case before the Court is related to the Esquipulas Procedure among other reasons:*

Firstly, because the Agreement by the Presidents of Honduras and Nicaragua requesting the postponement of the oral hearings, with the view of a withdrawal of the Nicaraguan Application, was included in the Esquipulas Declaration transmitted to the United Nations (U.N. document A/42/521).

Secondly, because in the Fifth Meeting of the Executive Commission (U.N. document A/42/948-S 19764, Annex 3 (c) seven of Honduras's answers in French; also annexed to the Agent of Honduras's intervention during the oral pleadings, in English), several agreements were adopted in paragraph 1, for the setting up of a system for the verification, control and follow-up, and the Minister of Foreign Relations of Nicaragua undertook the commitment, that later on he has constantly violated, "to submit to the International Court of Justice notice that the Government of Nicaragua is withdrawing the Application entered against the Government of Honduras on 28 July 1986. Such notice will be given no later than the day of the Sixth Meeting of the Executive Commission, to take place in the Republic of Honduras on May 1988".

The Sixth Meeting took place in Tegucigalpa, Honduras, the 21st June 1988, but the Government of Nicaragua refused to withdraw the Application; refused to sign the letter for the external co-operation; and, as the answer to this question by the Government of Honduras states, Nicaragua continues to present to its neighbours conditions and demands that being self-serving or unrealistic, demonstrate in fact, its non-willingness to comply with the Esquipulas Agreements.

108. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

28 July 1988.

I have the honour to send Your Excellency herewith a copy of a letter I received yesterday from the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, conveying the comments of his Government on Nicaragua's written answers to questions put

by Members of the Court at the hearing on questions of jurisdiction and admissibility in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

**109. THE PRINCIPAL LEGAL SECRETARY OF THE COURT
TO THE AGENT OF NICARAGUA¹**

14 December 1988.

In accordance with Article 58 of the Statute of the Court and Article 94 of the Rules of Court, I have the honour to inform Your Excellency that the judgment of the Court on questions of admissibility and jurisdiction in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* will be read in open court at a public sitting to be held at 10.00 a.m. on Tuesday 20 December 1988.

**110. THE REGISTRAR TO THE SECRETARY-GENERAL
OF THE UNITED NATIONS**

20 December 1988.

I have the honour to send you herewith, pursuant to Article 95, paragraph 3, of the Rules of Court, 3 copies of the text produced by offset from typescript, of the Judgment delivered today by the Court in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. A printed copy will be sent to you as soon as available.

**111. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES
D'AFGHANISTAN²**

La Haye, le 2 février 1989.

Le Greffier adjoint de la Cour internationale de Justice a l'honneur de transmettre sous ce pli un exemplaire de chacune des décisions ci-après:

- arrêt rendu par la Cour le 20 décembre 1988 sur les questions de compétence et de recevabilité en l'affaire relative à des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*.
- ordonnance rendue par la Cour le 20 décembre 1988 en l'affaire de l'*Elettronica Sicula S.p.A. (ELSI)*;
- ordonnance prise le 12 janvier 1989 par le président de la Chambre constituée pour connaître de l'affaire du *Différend frontalier terrestre, insulaire et maritime (El Salvador/Honduras)*.

D'autres exemplaires de ces décisions seront expédiés par la voie ordinaire.

¹ A communication in the same terms was sent to the Agent of Honduras.

² Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

112. L'AGENT DU HONDURAS AU PRÉSIDENT

La Haye, le 13 avril 1989.

J'ai l'honneur de me référer à la question que vous m'avez posée lors de la réunion tenue hier pour vous informer que, dans l'éventualité de présentation de pièces écrites dans la procédure entamée par le Gouvernement du Nicaragua, le Honduras entend se prévaloir de l'article 80 du Règlement et présenter une demande reconventionnelle lors de la présentation de son contre-mémoire. Les délais pour la présentation de ces pièces écrites devraient donc tenir compte de cette possibilité.

Cependant, de l'avis du Gouvernement du Honduras, que j'ai eu l'honneur de vous exprimer hier conformément aux instructions reçues, la fixation de ces délais ne s'avère pas nécessaire vu les engagements pris par les présidents centre-américains dans leur déclaration des 13-14 février 1989, où ils se sont accordés de chercher tout spécialement « des solutions négociées directement » pour les conflits surgis par effet de la crise centre-américaine, ainsi que dans les négociations qui ont eu lieu ultérieurement entre les parties intéressées et qui feront l'objet d'une nouvelle évaluation lors de la prochaine réunion des présidents des pays centre-américains qui aura lieu au mois de mai.

113. LE GREFFIER À L'AGENT DU HONDURAS

Le 17 avril 1989.

J'ai l'honneur d'accuser réception de la lettre, en date du 13 avril 1989, que vous avez adressée au Président de la Cour, relative à la question de la fixation de délais pour la procédure écrite sur le fond en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*. Sur instructions du Président, j'ai transmis copie de la lettre à l'agent du Nicaragua en l'affaire, pour son information.

114. THE REGISTRAR TO THE AGENT OF HONDURAS¹

21 April 1989.

I have the honour to refer to the meeting held on 12 April 1989 between the President of the Court and the Agents in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and to Your Excellency's letter of 13 April 1989 in this connection. By Order² of today's date, the President has fixed the following time-limits for pleadings on the merits:

¹ A similar communication was sent to the Agent of Nicaragua.

² *I.C.J. Reports 1989*, p. 6.

19 September 1989 for the Memorial of the Republic of Nicaragua;
19 February 1990 for the Counter-Memorial of the Republic of Honduras.

The sealed copy of the Order for the Government of Honduras is enclosed.

In fixing these time-limits, the President took into account the indication of the Agent of Nicaragua as to the time required for preparation of the Memorial, and Your Excellency's statement that the Government of Honduras would contemplate the presentation of a counter-claim in accordance with Article 80 of the Rules of Court.

The President desires me to inform you in addition that he has not failed to take account of the view expressed by the Government of Honduras that it is unnecessary at the present time to fix these time-limits, in view of the developments in Central America referred to in your letter. The President however considers that he is obliged to fix time-limits for proceedings on the merits once the Court has made a finding that it has jurisdiction and that the application is admissible, and that only the agreement of both Parties that it would be desirable to delay fixing such time-limits might exempt him from this obligation. Nor should the fixing of time-limits in a case be seen as in any way prejudicing the possibility of negotiation between the parties with a view to amicable settlement of that case (cf. *Losinger & Co. case, P.C.I.J., Series A/B, No. 67, p. 24*).

I am writing in similar terms to the Agent of Nicaragua.

115. L'AGENT DU HONDURAS AU GREFFIER

le 16 mai 1989.

J'ai l'honneur de vous accuser réception de votre aimable communication 81009 en date du 21 avril à laquelle vous avez joint l'ordonnance portant fixations des dates limites pour la présentation du mémoire nicaraguayen et contre-mémoire hondurien dans l'affaire relative à des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, ainsi que votre note 81056 en date du 9 mai avec sept copies imprimées de ladite ordonnance.

Le Gouvernement du Honduras tient à formuler dès à présent ses plus sérieuses réserves sur le délai qui lui a été imparti pour la réponse au mémoire du Nicaragua et la formulation de sa demande reconventionnelle et ceci vu la complexité de l'affaire et les raisons qui furent exposées lors de la réunion avec M. le Président de la Cour le 12 avril dernier.

116. THE AGENT OF NICARAGUA TO THE REGISTRAR

15 August 1989.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, in order to inform the Court of the agreements reached by the Central American Presidents in Tela, Honduras, on the 5, 6 and 7th of this month. Some of these agreements are related to the present case and, hence, a copy of the same is annexed to this letter.

It is clearly stated in the text of the agreement relating to the present case, that Nicaragua has committed itself to requesting a postponement of the date fixed by the Court for the presentation of its Memorial on the Merits. This agreement of Nicaragua and Honduras, backed "morally and politically" by the Presidents of Guatemala, El Salvador and Costa Rica implies, among other things, that Nicaragua will request this postponement until the date of the conclusion of the Joint Plan for the Demobilization, Repatriation or Relocation of the Nicaraguan Resistance and Their Families.

According to the agreement, this Plan "should finalize 90 days after it is initiated" by means of a certification given by the Secretaries General of the United Nations and of the Organization of American States, to the effect that the Plan has been fully implemented.

The execution of the Plan will start once the International Support and Verification Commission is installed. In accordance with our official information the Commission will be installed on the 25th of this month in New York. This would mean that 90 days later — that is, on 23 November 1989 — the Plan for the Demobilization, Repatriation or Relocation of the Nicaraguan Resistance and Their Families must be concluded.

In any case the agreement clearly indicates that the instalment of the Commission should take place no later than 30 days after the date of its signature. Therefore, even if the maximum time allotted were consumed, which is not the case, — that is, 30 days for the instalment of the International Commission and 90 days thereafter for the implementation of the Plan — this would bring us to next 5 December.

If the Plan is by that date duly implemented, and the Secretaries General of the United Nations and of the Organization of American States certify that this is so, Nicaragua would proceed to inform the Court that it would not go on with the present proceedings. Nicaragua certainly expects and wishes this to happen.

But also in compliance with its commitments stated above, Nicaragua requests that the Court fix a new date for the presentation of its Memorial on the Merits and proposes that this new date be 8 December 1989. For the reasons indicated above, Nicaragua considers that this is an adequate date that amply covers — and even goes 15 days beyond — the time-limits set by the agreement.

(Unofficial translation)

*Bilateral Accord between Nicaragua and Honduras*¹

The President of the Republic of Honduras, José Azcona Hoyo and the President of the Republic of Nicaragua, Daniel Ortega Saavedra;

Acting in their role as chief executive of their respective States and with the moral and political support of Presidents Vinicio Cerezo of Guatemala, Alfredo Cristiani of El Salvador and Oscar Arias Sánchez of Costa Rica;

Inspired by the noble purpose of maintaining peace, friendship and

¹ See also No. 117, *infra*, for a different English translation provided by Honduras.

co-operation between the Republics of Nicaragua and Honduras, countries united by strong historical ties of friendship and brotherhood;

Keeping in mind the commitment ratified in the Esquipulas Accords of 7 August 1987, of preventing the use of one's national territory to assault other States;

Keeping in mind also the Declaration of Costa del Sol of 14 February 1989, where the Central American Presidents committed themselves to "prepare in a period of no more than 90 days, a Joint Plan for the Demobilization and Voluntary Repatriation or Relocation in Nicaragua and in Third Countries of the Members of the Nicaraguan Resistance and Their Families"; and

Motivated by the will to always maintain open the possibility of resolving differences through peaceful means, including the International Court of Justice to resolve controversies that threaten the peace and security between States,

HAVE RESOLVED:

To agree to an extrajudicial agreement in relation to the procedure brought by Nicaragua against Honduras before the International Court of Justice on 28 July 1986. The aforesaid agreement is based on the following:

(A) On 7 August 1989, a Joint Plan for the Demobilization and Voluntary Repatriation or Relocation of the Nicaraguan Resistance and Their Families was agreed upon. The execution of this Plan shall begin immediately after the establishment of the International Commission of Support and Verification (CIAV), no later than 6 September, and shall end 90 days thereafter by means of a certification signed by the Secretaries General of the United Nations and the Organization of American States attesting to the complete fulfilment of the Plan.

(B) The presence of the Contra and their camps in Honduras does not contribute to the democratic process already underway in Nicaragua. The President of Honduras commits himself to officially convey, in the appropriate manner, before the United Nations Security Council a petition by his Government to form and dispatch to Honduran Territory an International Peace Force to impede the use of Honduran territory by irregular forces.

(C) Once compliance with all the previous points has been achieved and certified in the corresponding report by the International Commission of Support and Verification, in accordance with the Joint Plan for Demobilization, Nicaragua will desist from the procedures against Honduras in the International Court of Justice.

The President of Nicaragua, confident that the Government of Honduras will lend its full co-operation in order to comply in good faith with the Joint Plan for Demobilization, within the established time-period, commits the Government of Nicaragua to request a delay from the International Court of Justice for the presentation of its Memorial until the date when, in accordance with the Joint Plan, an official report on compliance has been presented.

Upon receiving the official report of the International Commission of Support and Verification on the compliance with this Joint Plan,

Nicaragua shall desist from the procedures against Honduras in the International Court of Justice.

Given in the City of Tela, Republic of Honduras, on the seventh day of August nineteen hundred and eighty-nine.

Daniel ORTEGA SAAVEDRA,
President of the
Republic of Nicaragua.

José AZCONA HOYO,
President of the
Republic of Honduras.

(also signed by)

Alfredo CRISTIANI BURKARD,
President of the
Republic of El Salvador.

Vinicio CEREZO ARÉVALO,
President of the
Republic of Guatemala.

Oscar ARIAS SÁNCHEZ,
President of the
Republic of Costa Rica.

(Unofficial translation)

Joint Plan for the Demobilization and Voluntary Repatriation or Relocation in Nicaragua and Third Countries of the Members of the Nicaraguan Resistance and Their Families, Together with Assistance for the Demobilization of All Those Involved in Armed Activities in the Countries of the Region, when Such Persons Voluntarily Request This Assistance

The Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua,

Honouring their historic pledge to achieve a firm and lasting peace in Central America,

Bearing in mind the Guatemala Procedure signed on 7 August 1987 and the Declarations of Alajuela and Costa del Sol,

Considering Resolution 637 adopted unanimously by the Security Council of the United Nations on 27 July 1989,

Seeking to advance the objectives of the Central American Peace Process and as a steady manifestation of their commitment to the full rule of international law,

Have agreed to this Joint Plan for the Demobilization and Voluntary Repatriation or Relocation of the Members of the Nicaraguan Resistance and Their Families, together with assistance for the demobilization of all persons involved in armed activities, when they may voluntarily request such assistance.

Chapter I. The Demobilization and Voluntary Repatriation or Relocation in Nicaragua and Third Countries of the Members of the Nicaraguan Resistance and Their Families

Introduction

This chapter is aimed at implementing the agreement by the Presidents regarding this subject, taking into account, *inter alia*:

1. The report of the Secretary General of the Organization of American States.

2. The National Political Agreement between the Government of Nicaragua and the 21 political parties of the country, where a call is made for the Central American Presidents to reach important political agreements regarding the democratic process so that the Plan for the Demobilization and Voluntary Repatriation and Relocation may be approved.

This chapter defines the mechanisms and methodology for the demobilization and voluntary repatriation or relocation of the members of the Nicaraguan Resistance, together with the material conditions and guarantees that persons covered shall enjoy under this Plan. This Plan will be implemented in collaboration with international organizations. The Plan also applies to the voluntary repatriation or relocation of the families of the members of the Nicaraguan Resistance and to Nicaraguan refugees, without prejudice to existing accords concerning this matter.

The Government of Nicaragua has demonstrated, in accordance with the Esquipulas Procedure and the Declaration of Costa del Sol, its readiness to strengthen the processes of national reconciliation and democratization, and thereby encourage a willingness on the part of the Nicaraguan Resistance to be repatriated. For this purpose we have decided to sign the present Plan that will attempt to make repatriation the general rule, with relocation in third countries the exception.

The five Central American Governments renew their pledge to prevent the use of their territory by persons, organizations or groups to destabilize other States in the region and to cease all types of aid to armed groups, with the exception of humanitarian aid that serves the purposes that the Presidents have outlined in this Plan.

Mechanism

1. For the execution and fulfilment of this plan an International Commission of Support and Verification will be established, to be known as the CIAV, in which the Secretary-General of the United Nations and the Secretary General of the Organization of American States will be invited to join. The Secretaries General may participate through their representatives.

2. Within 30 days of the signing of this Accord, the International Commission of Support and Verification (CIAV) shall be formed. The five Central American Presidents call upon the Nicaraguan Resistance to accept the implementation of this Plan within 90 days from the date of the formation of the CIAV. During these 90 days the Nicaraguan Government and the CIAV will maintain direct contacts with the Nicaraguan Resistance to promote their return to the country and integration into the political process. Upon completion, the CIAV will issue a report on compliance with this Plan to be submitted to the Central American Presidents.

3. The CIAV will be responsible for all activities that make possible the demobilization and voluntary repatriation or relocation, including the reception in final destinations, and the setting up of repatriates. In addition, the CIAV will ensure that necessary conditions for the full incorporation into public life are maintained for the repatriates and will undertake the follow-up and control that these processes require.

4. The CIAV will undertake its activities with the collaboration of the Central American Governments and will seek support from specialized international organizations with experience in the region, and others that it considers necessary and that shall be officially invited by the Governments.

The support of the specialized international organizations shall have among its objectives to facilitate the execution of the Plan. For this purpose, the specialized organizations shall collaborate with the CIAV in monitoring the full exercise of fundamental rights and freedoms of the repatriates, as well as the monitoring of the efforts to promote their economic well-being.

5. Once established, the CIAV will immediately:

(A) Consult and make the necessary agreements to facilitate the implementation of this Plan with the authorities of the Government of Nicaragua, the other Governments of Central America, the Nicaraguan Resistance, and officials of humanitarian organizations, as the case may require.

(B) Visit the camps of the Nicaraguan Resistance and of the refugees for the purpose of:

- (i) Making known the scope and benefits of this Plan.
- (ii) *Ascertaining the human and material resources in the camps.*
- (iii) Organizing the distribution of humanitarian aid.

(C) Assume responsibility, to the extent possible, for the distribution of foodstuffs, medical attention, clothing and other basic necessities in the Resistance camps, through the bodies and organizations that are aiding in this process; and

(D) Make arrangements with third countries to receive and provide the necessary assistance to those persons who do not wish to be repatriated.

6. The CIAV will provide every Nicaraguan adhering to this Plan with a certificate and will implement a voluntary repatriation programme for those wishing to return to Nicaragua.

Exit and entry will take place at border posts determined and prepared by joint agreement of the Governments concerned. At those posts, the Government of Nicaragua will, in the presence of CIAV representatives, extend the necessary documentation to guarantee the full exercise of their civil rights.

At the same time, work will be undertaken on the resettlement in third countries of those not opting for repatriation under the present Plan. For that purpose, the Government of Nicaragua will, in co-operation with the CIAV, facilitate the issuing of passports to those who request them.

The five Central American Presidents call upon the international community to provide financial assistance for the present Demobilization Plan.

Procedures

7. Once installed, the CIAV will establish the procedures for reception, under the Plan for the Demobilization and Voluntary Repatriation or Relocation in Nicaragua and Third Countries, of the arms, equipment and munitions of the members of the Nicaraguan Resistance, who will remain in the custody of the CIAV pending a decision by the five Presidents regarding their destination.

8. The CIAV will verify the dismantling of the camps left by the Nicaraguan Resistance and refugees.

9. The repatriated persons will, circumstances permitting, be taken directly by the CIAV to their place of definitive settlement, which, whenever possible, will be their place of origin, or to a site chosen by mutual agreement between the Government of Nicaragua and the CIAV. Temporary residence areas may be established in Nicaragua for these purposes. These areas will remain under the control and supervision of the CIAV while definitive locations are being determined.

Land will be allotted and economic and technical assistance will be provided for repatriates who wish to pursue agro-industries, in conformity with the possibilities of the Government of Nicaragua and the experience of specialized international agencies, and in accordance with the amount of funds obtained for this purpose.

10. In collaboration with the Government of Nicaragua, the CIAV will establish reception centres capable of providing basic services, first aid, family counselling, economic assistance, transportation to settlement areas, and other social services.

11. As an additional measure to provide the necessary guarantees for repatriates, the CIAV will establish from the outset monitoring offices so that persons may, where necessary, report any non-compliance with the guarantees originally offered for their repatriation. These offices will be maintained as long as the CIAV, in consultation with the Central American Governments, deems necessary.

Staff from these offices will periodically visit repatriates to verify compliance and will prepare reports on the implementation of this Plan. The reports will be sent by the CIAV to the five Central American Presidents.

12. Situations not provided for in this Chapter will be resolved by the CIAV in consultation with the Central American Governments and institutions, or persons concerned.

Chapter II. Assistance for the Demobilization of All Persons Involved in Armed Action in the Countries of the Region, When Such Persons Voluntarily Request This Assistance

This chapter is aimed at assisting the demobilization of all persons involved in armed activities in the countries of the region when they voluntarily request such assistance. The demobilization of these persons should be done in a manner consistent with the procedures of Esquipulas II and domestic legislation, and relevant agencies of the country in question.

In order to guarantee such assistance, the CIAV may be officially invited by the Central American Governments.

Chapter III. Assistance for the Voluntary Demobilization of the Members of the FMLN

As established under the Guatemala Procedure and the Alajuela and Costa del Sol Declarations, and in order to help bring about a cessation of the armed operations suffered by the Republic of El Salvador, the Governments of Costa Rica, Guatemala, Honduras and Nicaragua reiterate their firm conviction on the need for an immediate and effective cessation of hostilities in that sister country. Consequently, they emphatically urge the Farabundo Marti National Liberation Front (FMLN) to carry out a constructive dialogue for the purpose of securing a just and lasting peace. The aforesaid Governments likewise urge the Government of El Salvador to agree to incorporate the members of the FMLN into the normal life of the country, with full guarantees and in the spirit of numeral 2 of the Guatemala Procedure.

The Government of El Salvador undertakes to ensure unrestricted respect for its commitments regarding national reconciliation and to continue strengthening the process of pluralist, participatory and representative democratization already under way whereby social justice and full respect for the human rights and fundamental freedoms of Salvadorians may be promoted.

Once the FMLN, as a result of dialogue, has agreed to abandon armed struggle and to join the democratic and institutional life of the country, steps will be taken for the demobilization of the members of the FMLN in accordance with procedure established in Chapter I of this Plan, as applicable and with such modifications as the case may require, and to facilitate their demobilization.

Notwithstanding the aforesaid, members of the FMLN who may at any time voluntarily decide to lay down their arms and join in the political and civic life of El Salvador, shall receive the benefits of this Plan. For this purpose, the Government of El Salvador will, through the CIAV and appropriate national and international bodies, call on such persons to avail themselves of the benefits herein established, using all suitable means available.

Agreed and signed in the port city of Tela, Republic of Honduras, on the seventh day of August nineteen hundred and eighty-nine.

Oscar ARIAS SÁNCHEZ,
President of the
Republic of Costa Rica.

Alfredo CRISTIANI BURKARD,
President of the
Republic of El Salvador.

Vinicio CEREZO ARÉVALO,
President of the
Republic of Guatemala.

José AZCONA H.,
President of the
Republic of Honduras.

Daniel ORTEGA SAAVEDRA,
President of the
Republic of Nicaragua.

(Unofficial translation)

Tela Agreement

The Central American Presidents, meeting in the port city of Tela in the Republic of Honduras on 5, 6 and 7 August 1989,

Taking into consideration and recognizing the important work undertaken by the Executive Commission at its Ninth Meeting and by the Technical Working Group, whose efforts allowed this meeting to take place, and

Considering that, in order to achieve a firm and lasting peace and ensure implementation of the commitments assumed by the Presidents in the Declarations of Accords successively made at Alajuela and Costa del Sol, it is necessary to comply with the steps agreed upon in Esquipulas II,

AGREE :

1. To ratify their conviction to promote all measures aimed towards compliance with numerals 5 and 6 of the Esquipulas Accord in order to prevent the use of one's national territory to destabilize the Governments of the Central American countries. In keeping with the above, they subscribed the document containing the Joint Plan for the Demobilization and Voluntary Repatriation and Relocation in Nicaragua or Third Countries of the Members of the Nicaraguan Resistance and Their Families, and on assistance for the demobilization of all persons involved in armed activities in the countries of the region, when they voluntarily request such assistance.

2. To promote direct and mutually agreed resolutions to those disputes that may arise between various Central American countries. The Presidents of Guatemala, El Salvador and Costa Rica thereby lent their moral support to and endorsed the Agreement between Honduras and Nicaragua regarding the case before the International Court of Justice in The Hague.

3. To ratify the appeal to armed groups in the region that still persist in the use of force, particularly the FMLN, to abandon such actions. Towards this end, they have approved Article III on assistance for the Voluntary Demobilization of the FMLN. In Article III, the FMLN is vehemently called upon to put an immediate and effective end to hostilities, in order to engage in a dialogue which will lead to a cessation of the armed struggle and to incorporation of the members of the FMLN into the institutional and democratic life of the country.

4. The Presidents recognize the efforts of the Government of Guatemala to strengthen its process of national reconciliation through extensive and permanent dialogue in which the National Reconciliation Commission occupies a leading role. They likewise express their desire that this dialogue will serve to consolidate the democratic, pluralist and participatory process and, in accordance with numeral 1 of the Esquipulas Procedure and domestic legislation, reiterate an appeal to armed groups to abandon those activities which contradict the spirit of this accord and join in institutional political life by taking part in the process of national reconciliation.

5. In light of the fact that Honduras and Nicaragua have arrived at an agreement which includes the withdrawal by Honduras of its reservation regarding the enactment of the said Plan and the reiteration of the Honduran request to send an international peace force to Honduran territory, the Central American Presidents agree to request the United Nations to adopt the necessary measures for establishing the verification mechanism for security matters.

6. To ratify the call made by the Executive Commission at its Ninth Meeting that the Central American Commission on Environment and Development hold its First Meeting in Guatemala City on 30 and 31 August 1989 so that work be undertaken to prepare the draft convention governing its nature and functions.

7. To reiterate the importance of the Central American Parliament as a forum in which the peoples of the area will discuss and formulate recommendations on the political, economic, social and cultural problems of Central America. It is essential that the treaty establishing the Central American Parliament should enter into force as rapidly as possible.

8. To forcefully condemn drug trafficking and abuse. The Central American Presidents commit themselves to promulgate laws and adopt drastic measures to prevent our countries from becoming bases for drug traffickers. To achieve these goals, regional and international co-operation will be sought, agreements will be signed with countries affected by such illicit trafficking, and steps will be taken to permit effective control of drug trafficking.

9. The Central American Presidents agree to entrust the Executive Commission with the task of discussing and approving the document concerning political verification, which will be ratified by the Presidents at their next meeting.

Two years after the signing of the Esquipulas II Peace Plan, the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua reiterate their resolve to comply fully with all the commitments and agreements stipulated in the Guatemala Procedure and the Alajuela and Costa del Sol Decla-

rations, particularly those pertaining to the strengthening of the processes of national reconciliation and the perfecting of the democratic processes, for which strict compliance with the agreements reached is fundamental.

The Central American Presidents agree to meet again before the end of the year in the Republic of Nicaragua.

The Central American Presidents thank the people and Government of Honduras, and in particular President José Azcona Hoyo, for the hospitality extended to them.

Tela, Honduras, 7 August 1989.

Oscar ARIAS SÁNCHEZ,
President of the
Republic of Costa Rica.

Alfredo CHRISTIANI BURKARD,
President of the
Republic of El Salvador.

Vinicio CEREZO ARÉVALO,
President of the
Republic of Guatemala.

José AZCONA H.,
President of the
Republic of Honduras.

Daniel ORTEGA SAAVEDRA,
President of the
Republic of Nicaragua.

117. THE AGENT OF HONDURAS TO THE REGISTRAR

16 August 1989.

I have the honour to submit to the consideration of the International Court of Justice, the Spanish texts¹ of the Declaration of Central American Presidents, and the annex documents adopted at the Summit held in Tela, Honduras, on 5 to 7 August 1989, within the regional peace process established by the Esquipulas II Agreements.

I enclose further a non-official translation to English of the second document annexed, that refers to the Agreement between the Presidents of Honduras and Nicaragua in relation to the Application filed by Nicaragua before the International Court of Justice in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

(Non-official translation)

*Agreement*²

The President of the Republic of Honduras, José Azcona Hoyo, and the President of the Republic of Nicaragua, Daniel Ortega Saavedra,

As Heads of the Executive Power of their respective States, and with the moral and political support of the President Marco Vinicio Arévalo of

¹ Not reproduced; for English translations provided by Nicaragua, see No. 116, *supra*.

² See also No. 116, *supra*, for a different English translation provided by Nicaragua.

Guatemala, Alfredo Cristiani of El Salvador, and Oscar Arias Sánchez, of Costa Rica,

Inspired by the noble purpose of maintaining the peace, cordiality and co-operation amongst the Republics of Nicaragua and Honduras, countries united by close historical bonds of friendship and fraternity,

Bearing in mind the compromise that was ratified in the Esquipulas Agreement of 7 August 1987 not to allow the use of territory to attack other States,

Recalling also the Costa del Sol Declaration of 14 February 1989 wherein the Presidents of Central America agreed to "elaborate, within a term not longer than 90 days, a Multilateral Plan for the demobilization, repatriation or voluntary relocation in Nicaragua and in third countries of the members of the Nicaraguan resistance and their families", and,

Always with the will to eventually resort to pacific procedures of settlement of controversies, including the recourse to the International Court of Justice, to settle eventual situations or controversies that might threaten the peace and security between both States,

AGREE TO

Reach an extra-judicial agreement in relation to the Application filed by Nicaragua in the Registry of the International Court of Justice on 28 July 1986, instituting proceedings against Honduras. The bases of said agreement are:

A. Having agreed on a Multilateral Plan for the demobilization, repatriation or voluntary relocation of the Nicaraguan resistance and their families on 7 August 1989, whose execution should start as soon as the International Commission of Support and Verification (CIAV) has been established, no later than 6 September 1989, and concluded 90 days after it is initiated, by means of a certification of the Secretary-General of the United Nations and the Secretary General of the Organization of American States placing on record the total completion of said Plan.

B. Taking into account that the presence of the Contra and their encampments do not contribute to the development of the democratic process, already in motion in Nicaragua, the President of Honduras pledges to make official, in a suitable manner, the request of his Government to the Security Council of the United Nations to form and send to Honduran territory an International Peace Force to prevent the use of its territory by irregular forces.

C. Once the aforementioned has been carried out and the CIAV has filed the corresponding record of completion, in accordance with the Multilateral Plan of Demobilization, Nicaragua will proceed to discontinue the Application filed against Honduras before the International Court of Justice.

The President of Nicaragua, confident that the Government of Honduras will co-operate fully to the completion of this Multilateral Plan of Demobilization, in good faith, within the time-limit established in the same, expressed that the Government of Nicaragua pledges to request to the International Court of Justice a postponement of the date fixed by the Court for the presentation of its Memorial on the Merits of the Application, until the date that, according to the Multilateral Plan, the official report of completion is presented.

Upon receipt by Nicaragua of the Official Report of Completion of the Multilateral Plan of the CIAV, in the terms agreed on, Nicaragua will proceed to discontinue the Application filed against Honduras before the International Court of Justice.

Signed in the City of Tela, Republic of Honduras, the seventh of August of nineteen eighty-nine.

Daniel ORTEGA SAAVEDRA,
President of the Republic
of Nicaragua.

José AZCONA HOYO,
President of the Republic
of Honduras.

118. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

16 August 1989.

I have the honour to acknowledge receipt in facsimile of Your Excellency's letter of 15 August 1989, with its annexes, and at the same time to transmit to you a copy¹ of a related letter dated 16 August 1989 which has just been received from the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, together with a copy of the annexes enclosed therewith.

I also enclose a copy of a letter to the Agent of Honduras from which you will observe that he has been given until 31 August 1989 to express, in accordance with Article 44, paragraph 3, of the Rules of Court, the views of his Government on the subject of your request for an extension of time-limit.

119. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

16 August 1989.

I have the honour to transmit to Your Excellency herewith a letter with annexes¹ addressed to the Registrar on 15 August 1989 by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and received in a facsimile.

You will observe that the letter in question, which concerns the texts adopted on 7 August 1989 at Tela, contains a request that the time-limit for the filing of the Memorial be extended from 19 September 1989 to 8 December 1989. In order that a decision may be taken on this request in accordance with Article 44, paragraph 3, and Article 48 of the Rules of Court, I am to request you, on the instructions of the Vice-President of the Court, exercising the functions of President in accordance with Article 13, paragraph 3, of the Rules, to make known the views of Honduras on the matter as soon as possible, and at all events not later than 31 August 1989.

I have also the honour to acknowledge the receipt at this instant of a letter of today's date, with annexes, by which Your Excellency likewise submits to the consideration of the Court the texts adopted at Tela.

¹ Not reproduced.

120. THE AGENT OF HONDURAS TO THE DEPUTY-REGISTRAR

22 August 1989.

I have the honour to acknowledge receipt of your letter 81499 of 16 August 1989, by which you transmit me a letter with Annexes sent to the Registrar by facsimile on 15th August 1989 by the Agent of Nicaragua, in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

With regard to the request of the Government of Nicaragua, in compliance with the *Tela Agreement* of 7 August 1989, between the President of Nicaragua and the President of Honduras, that the time-limit for the filing of the Memorial of Nicaragua on the merits of that case be extended to 8 December 1989, the Government of Honduras welcomes this request and has no observations to make to it.

The Government of Honduras, however, expects that with the fulfilment by the CIAV of the task assigned to it by the *Joint Plan for the Voluntary Demobilization, Repatriation or Relocation in Nicaragua and Third Countries of Members of the Nicaraguan Resistance and Their Families*, approved by the Presidents of the five Central American countries on 7 August 1989, and with the co-operation of all the parties concerned, Nicaragua will ask the case to be discontinued early in December, thus enabling the Court to make an Order directing that the case be removed from the list.

121. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

22 August 1989.

I have the honour to transmit to Your Excellency herewith a copy of a letter of today's date in which the Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* states *inter alia* that his Government has no observations to make upon your request for an extension of the time-limit fixed for the filing of the Memorial on the merits.

You will be informed in due course of the decision which is taken in accordance with Article 44, paragraph 3, of the Rules of Court.

122. THE DEPUTY-REGISTRAR TO THE AGENT OF HONDURAS

22 August 1989.

I have the honour to acknowledge receipt of Your Excellency's letter of today's date concerning the request by the Agent of Nicaragua for an extension of the time-limit fixed for the filing of the Memorial on the merits in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and take note that your Government has no observations to make upon that request.

You will be informed in due course of the decision which is taken in accordance with Article 44, paragraph 3, of the Rules of Court.

123. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

31 August 1989.

I have the honour to refer to Your Excellency's letter of 15 August 1989 and to inform you that the President of the Court has, by an Order² of today's date, acceded to the request in that letter for an extension to 8 December 1989 of the time-limit for the filing of the Memorial of Nicaragua on the merits in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*. The question of extension of the time-limit for the filing of the Counter-Memorial of Honduras has been reserved for further decision.

The sealed copy of the Order for the Government of Nicaragua will be transmitted to you shortly.

124. LE GREFFIER À L'AGENT DU NICARAGUA

Le 8 décembre 1989.

J'ai l'honneur d'accuser réception du mémoire sur le fond que votre gouvernement a déposé ce jour au Greffe de la Cour en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*.

Ce mémoire, en deux volumes, qui était accompagné de dix volumes d'annexes, ainsi que d'une carte et de quatre ouvrages, déposés pour consultation à la bibliothèque de la Cour, a été présenté dans le délai fixé à cet effet par l'ordonnance du Président de la Cour en date du 31 août 1989.

125. LE GREFFIER À L'AGENT DU HONDURAS

Le 8 décembre 1989.

Me référant à l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, j'ai l'honneur de vous faire tenir ci-joint une copie certifiée conforme du mémoire sur le fond déposé ce jour au Greffe de la Cour par la République du Nicaragua dans le délai fixé à cet effet par l'ordonnance du Président de la Cour en date du 31 août 1989.

Vous voudrez bien également trouver ci-joint dix volumes d'annexes audit mémoire, ainsi que la copie d'une lettre par laquelle l'agent du Nicaragua en l'affaire a procédé aux certifications requises aux articles 50 et 51 du Règlement de la Cour.

J'ai en outre l'honneur de porter à votre connaissance, en relation avec la liste d'annexes qui est reproduite au début du second volume du mémoire, qu'une carte et quatre ouvrages ont été déposés pour consultation à la bibliothèque de la Cour.

126. THE AGENT OF NICARAGUA TO THE REGISTRAR

13 December 1989.

In my capacity as Agent for the Republic of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, I wish

¹ A similar communication was sent to the Agent of Honduras.

² *I.C.J. Reports 1989*, p. 123.

to inform the Court of the Agreement reached by the Presidents of the Central American Republics on 12 December 1989 in San Isidro de Coronado, Costa Rica. Attached is the text of this Agreement in its original Spanish version titled "*Declaración de San Isidro de Coronado*"¹ together with an English translation.

I draw the attention of the Court to paragraph 13 of the Declaration, that instructs the Agents of both Parties to this case with the duty of communicating immediately this document to the Court and

"to request the postponement of the date for the fixing of the timetable for the presentation of the Honduran counter-memorial until June 11, 1990".

Since I had communicated orally the above-mentioned paragraph to the President of the Court at the meeting held yesterday in his office in the presence of the Agent of the Republic of Honduras, I now do so in writing and, with the object of implementing fully the instructions of the "Declaration of San Isidro de Coronado", request the postponement indicated in the above quote from the "Declaration", and that the Court take notice of the rest of the pertinent text.

(Unofficial translation)

Declaration of San Isidro de Coronado

The Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, gathered in special session in San Isidro de Coronado, Costa Rica, on 10, 11 and 12 December 1989, for the purpose of examining the precarious situation of Central America that is seriously affecting the peace process, ratified the agreement contained in the preamble to the Procedures for Establishing a Firm and Lasting Peace in Central America (Esquipulas II), especially those points which address the historic objective of shaping a peaceful future for Central America, eradicating war and making dialogue prevail over violence and reason over rancour. In keeping with these objectives, they agreed to the following:

1. To ratify their strongest condemnation of the armed actions and terrorism that irregular forces are carrying out in the region and to reaffirm their profound conviction that it is imperative to make the peoples of the region recognize that the use of force and terror to achieve political purposes and objectives must be abandoned.

2. The Presidents of Costa Rica, Guatemala, Honduras and Nicaragua express their firm support for the President of El Salvador, Mr. Alfredo Cristiani, and his Government, as a loyal manifestation of their unwavering policy to support governments that are the product of democratic, pluralistic and participatory processes.

3. The Presidents of Guatemala, Honduras, Nicaragua and Costa Rica support the Government of El Salvador in its sustained objective of finding a solution to the Salvadoran conflict through peaceful and democratic means, and in this sense, renew their exhortation to the FMLN for an immediate and effective cessation of hostilities in that sister State and to reincorporate itself in the process of dialogue which has already been initiated. At the same time, the Presidents demand that the FMLN publicly renounce any type of violent action that

¹ Not reproduced.

directly or indirectly affects the civilian population. The five Presidents decided to directly request the Secretary-General of the United Nations, by exerting his greatest possible personal influence, to undertake whatever measures may be necessary to re-initiate dialogue between the Government of El Salvador and the FMLN, and thereby contribute to its successful development.

4. The Presidents point out that in accordance with the Declarations of Alajuela, Costa del Sol and Tela, the provisions contained in Chapters I and III of the joint plan for demobilization form an indivisible whole. They thereby request the International Commission of Support and Verification (CIAV) to initiate immediately the necessary steps for the demobilization of the *Farabundo Martí Front for National Liberation (FMLN)*, in accordance with procedures established in the aforementioned plan.

5. The Presidents give their support to the Nicaraguan Government of President Daniel Ortega so that upon the signing of this Accord, the funds approved for the Nicaraguan Resistance be delivered to the CIAV for the purpose of implementing the process of demobilization and voluntary repatriation or relocation in Nicaragua or third countries of members of the Nicaraguan Resistance and their families.

The Presidents call upon the Nicaraguan Resistance to cease any kind of action against the electoral process or the civilian population, so that said process can develop in a climate of normalcy in accordance with the Esquipulas II Accord.

6. Initiating the processes of demobilization of the Nicaraguan Resistance and the FMLN constitutes a fundamental factor in overcoming the crisis that affects the peace process. Therefore, ONUCA should accelerate its activities in order to avoid the supplying of arms to the FMLN and the Nicaraguan Resistance.

7. The Government of Nicaragua repeats its offer to the Nicaraguan Resistance, made in Washington, D.C., United States of America, to undertake the appropriate measures so that those persons who repatriate before 5 February 1990, may register in order to exercise the right to vote in the general elections to be held on 25 February of that year.

The Government of Nicaragua will proceed immediately upon the signing of this Accord to make the appropriate contacts with the ONUCA and the CIAV in order to begin the process of demobilization of forces of the Nicaraguan Resistance in Honduras, in accordance with procedures established in the Tela Accord.

8. The Presidents reaffirm the importance of international co-operation as a parallel and indispensable element for the political efforts to bring peace to the region, and they call upon the international community to increase its support. They manifest the region's willingness to continue its joint work in this sphere, convinced that economic and social development is a constant factor in efforts to achieve peace. They expressed their gratitude for the progress that has been achieved under the Special Plan of Co-operation for Central America approved by the United Nations Development Program (UNDP) for this purpose. They also expressed gratitude to the European Economic Community for its support in international co-operation since the Luxembourg Accords.

9. The Central American Presidents, in accordance with the Esquipulas II Accords, reaffirm their commitment to fully respect human rights, including civil, political, economic, social and cultural rights established in their respective Constitutions and signed and ratified in international accords.

10. The Presidents agree to request the Secretary-General of the United Nations to establish the necessary ties to involve more directly in the peace process those States with interests in the region, within the framework of the

Esquipulas II Accords and subsequent declarations. They also request that the mandate of the ONUCA be extended to include verification of the processes of cessation of hostilities and demobilization of irregular forces that may be agreed upon in the region.

11. In view of recent events, the Presidents confirm that the complete deployment of the mechanism of the Group of Military Observers of the United Nations for Central America (ONUCA) is of the utmost urgency for the fulfilment of the commitments contained in Numbers 5 and 6 of the Esquipulas II Accords. For that reason, they decided also to ask the Secretary-General of the United Nations to adopt the appropriate measures to accelerate the functioning of the ONUCA, and that ONUCA keep the Central American Presidents informed.

12. The Presidents of Guatemala, Honduras and Costa Rica, based on the commitment to seek negotiated solutions to overcome conflicts arising from the Central American crisis, exhort the Presidents of El Salvador and Nicaragua so that through negotiation and dialogue they put an end to the constraints that have arisen between their Governments and continue their diplomatic and consular relations.

13. In regards to the case brought by the Government of Nicaragua against the Government of Honduras before the International Court of Justice under the title "Border and Transborder Armed Actions" — the Presidents of those Countries agree to establish a commission with bilateral representation to seek, within a period of six months from this date, an extrajudicial settlement of the aforementioned case. In order to facilitate the work of the commission, they also agree to instruct their respective agents in said case to communicate immediately, either separately or jointly, the present agreement to the Court in order to request the postponement of the date for the fixing of the time-table for the presentation of the Honduran Counter-Memorial until 11 June 1990. This communication will give the agreement full and immediate effect between the high litigants.

Likewise, in case that an extrajudicial settlement has not been reached by the date indicated, it is agreed that the agents of either of the countries may request of the Court that the Government of Honduras be granted six months to present the aforementioned Counter-Memorial.

The Central American Presidents express their gratitude to the people and Government of Costa Rica for their hospitality, and to all the men and women whose work contributed to the results obtained at this meeting. In virtue of what has been agreed upon and confident of its fulfilment, the Central American Presidents agree to meet during the first three months of the year 1990, in the regular meeting to be held in the city of Managua, Nicaragua.

San Isidro de Coronado, 12 December 1989.

Oscar ARIAS SÁNCHEZ,
President of the
Republic of Costa Rica.

Alfredo CRISTIANI BURKARD,
President of the
Republic of El Salvador.

Vinicio CEREZO ARÉVALO,
President of the
Republic of Guatemala.

José AZCONA HOYO,
President of the
Republic of Honduras.

Daniel ORTEGA SAAVEDRA,
President of the
Republic of Nicaragua.

127. THE REGISTRAR TO THE AGENT OF HONDURAS

13 December 1989.

I have the honour to transmit to Your Excellency herewith a copy of a letter, dated 13 December 1989 and received in the Registry late this afternoon, from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and a copy of the documents referred to in, and enclosed with, that letter.

128. L'AGENT DU HONDURAS AU GREFFIER

La Haye, le 13 décembre 1989.

J'ai l'honneur de me référer à l'entretien tenu hier par le Président de la Cour internationale de Justice avec M. l'agent du Nicaragua et avec moi-même, en tant qu'agent du Honduras dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*, pour vous confirmer la communication de M. l'agent du Nicaragua dans le sens que les présidents du Nicaragua et du Honduras ont conclu le 12 décembre un accord d'entrée en vigueur immédiate au sujet de la demande du Nicaragua dans le cadre de la réunion tenue au Costa Rica par les présidents de l'Amérique centrale.

Cet accord figure au paragraphe 13 de la «Declaración de San Isidro de Coronado» signée par les présidents du Costa Rica, El Salvador, Guatemala, Honduras et Nicaragua dont vous trouverez le texte en espagnol¹ joint à cette lettre pour que la Cour puisse en prendre connaissance; et pour qu'elle prenne la décision de surseoir jusqu'au 11 juin 1990 la fixation éventuelle du délai pour la présentation du contre-mémoire du Honduras pour le cas où on ne serait pas arrivé auparavant à un arrangement extrajudiciaire sur les différends existants.

129. THE REGISTRAR TO THE AGENT OF HONDURAS²

15 December 1989.

I have the honour to refer to Your Excellency's letter of 13 December 1989 and transmit to Your Excellency herewith a plain copy of an Order made by the Court on 14 December 1989, whereby the Court decided that the time-limit for the filing of the Counter-Memorial of Honduras on the merits in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* was extended from 19 February 1990 to a date to be fixed by an Order to be made after 11 June 1990.

The sealed copy of the Order for the Government of Honduras will be transmitted to you shortly.

¹ Non reproduiti; pour une traduction en anglais fournie par le Nicaragua, voir ci-dessus n° 126.

² A similar communication was sent to the Agent of Nicaragua.

130. L'AGENT DU HONDURAS AU GREFFIER

La Haye, le 3 janvier 1990.

J'ai l'honneur de porter à votre connaissance que, ma mission aux Pays-Bas étant terminée, je quitterai La Haye très prochainement. En même temps prend fin aussi ma mission en tant qu'agent du Gouvernement du Honduras dans l'affaire relative à des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)* pendante devant la Cour internationale de Justice. S. Exc. l'ambassadeur Jorge Ramón Hernández Alcerro continue comme coagent dans cette affaire jusqu'à la nomination de mon successeur.

Je tiens à remercier Monsieur le Greffier de son appréciable collaboration qui a rendu possible l'accomplissement de ma tâche et je saisis cette occasion pour lui renouveler l'expression de ma haute considération.

131. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

12 June 1990.

I have the honour to refer to the Order made by the Court on 14 December 1989 in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, by which it decided that the time-limit for the filing by the Republic of Honduras of the Counter-Memorial on the merits in that case was extended to a date to be fixed by an Order to be made after 11 June 1990.

The date referred to having now passed, the President of the Court considers that he should, in the interests of the orderly administration of the Court's judicial work, ascertain from the Agents of the Parties their views on the further procedure. For this purpose, and pursuant to Article 31 of the Rules of Court, he requests the Agents to attend a meeting in his office at 11.30 a.m. on Monday 25 June 1990.

132. THE REGISTRAR TO THE CO-AGENT OF HONDURAS²

15 June 1990.

I have the honour to inform Your Excellency, with reference to my letter of 12 June 1990, that the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* has informed the President that he will unfortunately be unable to attend the meeting scheduled for 11.30 a.m. on Monday 25 June 1990. The President therefore proposes to hold the meeting at 10.00 a.m. on Friday 22 June 1990, and trusts that you will be able to be present.

¹ A communication in the same terms was sent to the Agent of Honduras.

² A similar communication was sent to the Agent of Nicaragua.

133. THE AMBASSADOR OF HONDURAS IN THE NETHERLANDS TO THE REGISTRAR

20 June 1990.

I have the honour to transmit you herewith a letter dated 20 June 1990 which I received today from the Minister of Foreign Relations of Honduras, Dr. Mario Carías Zapata, that reads, translated to English, as follows:

“Tegucigalpa, 20 June 1990.

Sir,

I have the honour to refer to a request forwarded to the Agents of Nicaragua and Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* to attend a meeting with the President of the Court on 22 June, pursuant to the Order made by the Court on 14 December 1989.

To this respect I transmit to this Honourable Court herewith, the texts of paragraphs 3, 5, 7, 11 and 12 of the Declaration of Antigua signed on 17 June by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua; and by the President of Panama, as observer, which are of special relevance to this case.

At the same time I wish to inform you that on the occasion of this Presidential Meeting, Mrs. Violeta Barrios de Chamorro, President of Nicaragua, conveyed to Mr. Rafael Leonardo Callejas, President of Honduras, that her Government is requesting the Court, through their Agent in this case, that no date be fixed for the filing of the Counter-Memorial of Honduras, request which has our acceptance.

Under these circumstances, I must excuse the Co-Agent of Honduras, Ambassador Jorge Ramón Hernández Alcerro, from attending the meeting convoked by the President, as this meeting does not seem to be necessary. On the other hand, I request you to take due note that if the meeting is held, my Government will be represented by Mr. Ramón Valladares Soto, Ambassador of Honduras in the Netherlands.

Please accept the assurances of my highest consideration.

Mario CARÍAS ZAPATA,
Minister of Foreign Relations.”

(Signed) Ramón VALLADARES SOTO.

**134. LE MINISTRE DES RELATIONS EXTÉRIEURES DU HONDURAS
AU GREFFIER**

Tegucigalpa, D.C., 20 de junio de 1990.

Tengo el honor de referirme a la convocatoria para que el día 22 de junio se reúnan con el Señor Presidente de la Corte, los Agentes de Nicaragua y Honduras en el caso “Acciones Armadas Fronterizas y Transfronterizas” (Nicaragua vs. Honduras), en atención a la Providencia de la Corte de 14 de diciembre de 1989.

A este respecto, me permito comunicar a la Honorable Corte los textos adjuntos de los párrafos 3, 5, 7, 11 y 12 de la Declaración de Antigua, suscrita el 17 de junio, por los Presidentes de Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua; así como por el Presidente de Panamá, como observador, y los cuales tienen particular relevancia en el caso que nos ocupa.

Igualmente hacer de su atento conocimiento que, en ocasión de la Reunión Cumbre, la señora Violeta Barrios de Chamorro, Presidente de Nicaragua, comunicó al Licenciado Rafael Leonardo Callejas, Presidente de Honduras, que su Gobierno a través del Agente en el caso, solicita a la Corte que no fije plazo para la presentación de la Contra Memoria de Honduras, pedido que cuenta con nuestra aceptación.

En estas circunstancias, debo excusar al señor Co-Agente de Honduras, Embajador Jorge Ramón Hernández Alcerro, por no asistir a la reunión convocada por el señor Presidente, que no parece ser ya necesaria. De otra parte, si la misma se celebra, le ruego tomar debida nota que mi Gobierno se haría representar en la misma por el Abogado Ramón Valladares h., Embajador de Honduras en Holanda.

(Signed) Mario CARÍAS ZAPATA,
Ministro de Relaciones Exteriores.

(Unofficial translation)

Declaration of Antigua
17 June 1990

"3. The Presidents of Guatemala, El Salvador and Costa Rica within the spirit of the Esquipulas II Agreements and bearing in mind the Agreements of Tela and San Isidro de Coronado regarding the Application filed before the International Court of Justice by Nicaragua against Honduras on 28 July 1989, under the name "Border and Transborder Armed Actions"; urge the Governments of Nicaragua and Honduras to integrate the Commission that will pursue an extra-judicial settlement for said dispute, hoping it to reach a prompt solution."

* * *

"5. The Presidents of Guatemala, El Salvador, Honduras and Costa Rica praise the President of Nicaragua, Mrs. Violeta Barrios de Chamorro, with enthusiasm and true satisfaction for her participation in the VIIIth Presidential Meeting, and are truly convinced that her presence will encourage our efforts to continue in the path that conducts to the establishment of peace, democracy and economic and social development in the area; and grant their total support and recognition to the task that she has undertaken to recover Nicaragua, and especially for the transcendental achievements in demobilizing the Nicaraguan Resistance, and in producing a schedule for the substantial reduction of the armed forces of her country, all of this within the spirit of the Esquipulas Agreements."

* * *

"7. The Presidents of Costa Rica, El Salvador, Guatemala and Nicaragua express, at the same time, their true satisfaction and support to the policy of President Mr. Rafael Leonardo Callejas and the Government of Honduras, not

to allow the use of their territory by irregular forces and their full co-operation to the fulfilment of the Joint Plan for the Demobilization, Repatriation or Voluntary Resettlement in Nicaragua and Third Countries of the Members of the Nicaraguan Resistance and Their Families, under the control of the CIAV/ONUCA.”

* * *

“11. Excel the latest achievements reached by the Government of Nicaragua and the Nicaraguan Resistance, on the execution of the ‘Declaration of Managua’ of 4 May 1990, and its Protocol of the 30th of the same month, given that the voluntary disarmament of more than 14,900 irregulars, according to the report rendered by ONUCA and CIAV, have practically achieved the completion of the process of demobilization, constituting a substantial contribution to the peace of Central America.”

* * *

“12. Acknowledge and thank the contribution and efforts of ONUCA and CIAV in favour of peace in Central America.”

[Spanish text not reproduced]

135. THE AGENT OF NICARAGUA TO THE REGISTRAR

The Hague, 26 June 1990.

I have the honour to refer to the time-limit to be fixed for the filing by the Republic of Honduras of the Counter-Memorial on the merits in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*.

In the Order of 14 December 1989, the Court decided:

“that the time-limit for the filing by the Republic of Honduras of a Counter-Memorial on the merits is extended from 19 February 1990 to a date to be fixed by an order to be made after 11 June 1990”.

This decision was taken in view of the agreement to this effect reached by the Parties in San Isidro de Coronado, Costa Rica, on 12 December 1989 (Declaration of San Isidro de Coronado) and which was communicated to the Court. The Court rightly interpreted that the pertinent part of the agreement further provided

“that if no extra-judicial settlement of the dispute has been reached by that date, either party may request that Honduras be granted six months for the filing of its Counter-Memorial”.

On 17 June 1990 the Central American Presidents issued a Declaration in Antigua, Guatemala (Declaration of Antigua). In paragraph 3 of this Declaration, the Presidents of Guatemala, El Salvador and Costa Rica urged the Governments of Nicaragua and Honduras to integrate the Commission provided for in paragraph 13 of the Declaration of San Isidro in order to pursue an extra-judicial settlement of the dispute which is the subject of the case in reference.

Even though no extra-judicial settlement of the dispute has been reached

within the time period provided for in the Declaration of San Isidro de Coronado, in the spirit of the Declaration of Antigua, I have been instructed not to request at present that the Court fix a time-limit for the filing of the Counter-Memorial of the Republic of Honduras. Furthermore, Nicaragua wishes the Court to know that it will not exercise its right — provided for in the Declaration of San Isidro de Coronado — to request that this time-limit be fixed at least until before the beginning of next year in the hope that the coming months will be fruitfully used in the spirit of the Declaration of Antigua.

**136. THE MINISTER FOR EXTERNAL RELATIONS OF HONDURAS TO THE
PRESIDENT OF THE COURT**

Tegucigalpa, 7 November 1990.

I have the honour to inform you that in accordance with the Procedure of Esquipulas, in the last meeting of the Executive Commission of Ministers of Foreign Affairs of Central America, held in this city on October 29 and 30, a final Document of Conclusions was agreed upon, which in its number four states:

“The Executive Commission welcomed with approval, that the Governments of Honduras and Nicaragua, within the spirit of the Agreements of Esquipulas II and having in mind the Agreements of Tela and San Isidro de Coronado, have proceeded to integrate the Bipartite Commission which will search for an extrajudicial solution conducive to the definite withdrawal of the action, brought by Nicaragua against Honduras, in the International Court of Justice, the 28 of July 1989. At the same time, the Commission noted the intention of both Governments to inform the International Court of Justice of this decision and to celebrate, in Tegucigalpa, the first reunion of the Bipartite Commission in mid-November of the present year.”

I will greatly appreciate your taking notice of this conclusion.

**137. THE REGISTRAR TO THE AMBASSADOR OF HONDURAS TO THE
NETHERLANDS**

13 November 1990.

I have the honour to acknowledge receipt of Your Excellency's letter of 12 November 1990 addressed to the President of the Court, transcribing and enclosing a copy of a letter¹ to the President from His Excellency Dr. Mario Carias Zapata, Minister of Foreign Relations of Honduras, received from Honduras by facsimile. Since this communication refers to negotiations for a possible discontinuance of the proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, I am transmitting a copy of it to the Agent of Nicaragua in that case.

¹ See No. 136, *supra*.

138. THE CO-AGENT OF HONDURAS TO THE PRESIDENT OF THE COURT

Tegucigalpa, 7 November 1990.

I have the honour to inform you that as of September the 4th, in accordance with the Procedure of Esquipulas, its subsequent agreements, specially those of Tela and Montelimar, the Government of Honduras has appointed Messrs. Guillermo Pérez Cadalso Arias and Julio Rendón Barnica as its representatives to the Bilateral Commission established by the Presidents of Honduras and Nicaragua in San Isidro Coronado, Costa Rica, on December 12th, 1989.

Such Commission, has been given the responsibility to obtain an extrajudicial solution, conducive to the definitive withdrawal of the action brought by Nicaragua against Honduras in the International Court of Justice (*Border and Transborder Armed Actions*).

The Governments of Honduras and Nicaragua have agreed to communicate the Court the appointment of their representatives and to hold the Commission's first meeting during the second half of the current month of November.

(Signed) Jorge Ramón HERNÁNDEZ ALCERRO.

139. THE REGISTRAR TO THE AGENT OF NICARAGUA

11 May 1992.

I have the honour to acknowledge receipt of a letter dated 11 May 1992 whereby the Government of Nicaragua has informed the Court of its decision to renounce all further right of action based on the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and stated its wish not to go on with the proceedings.

I take note further that in this letter you have requested that an Order be made by the Court recording the discontinuance of the proceedings and directing the removal of the case from the list.

I shall not fail to inform you in due time of such action as may consequently be taken in accordance with Article 89 of the Rules of Court.

140. THE REGISTRAR TO THE CO-AGENT OF HONDURAS

12 May 1992.

I have the honour to transmit to you herewith a copy of a letter of 11 May 1992 from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, by which the Agent states the intention of the Government of Nicaragua not to go on with the proceedings, and requests that an Order be made officially recording the discontinuance of the proceedings, and directing the removal of the case from the list.

In accordance with Article 89, paragraphs 2 and 3, of the Rules of Court,

the President of the Court has fixed 25 May 1992 as the time-limit within which Honduras may state whether it opposes the discontinuance of the proceedings.

141. THE REGISTRAR TO THE AGENT OF NICARAGUA

18 May 1992.

I have the honour to transmit to Your Excellency herewith a copy of a letter, dated 15 May 1992 and received today in the Registry, by which the Chargé d'Affaires a.i of the Embassy of Honduras in The Hague transmitted a copy of a letter dated 14 May 1992 sent by telefax by the Co-Agent of Honduras in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* (copy also attached)¹, informing me that the Government of Honduras made no objection to the discontinuance of the proceedings by Nicaragua.

In view of the absence of objection by Honduras, the Court shall make an Order officially recording the discontinuance of the proceedings and directing the removal of the case from the list, in accordance with Article 89, paragraph 2, of the Rules of Court.

142. THE REGISTRAR TO THE AGENT OF NICARAGUA²

27 May 1992.

I have the honour to inform Your Excellency that by an Order³ of today's date the Court has placed on record the discontinuance by the Republic of Nicaragua of the proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, and has directed the removal of that case from the list, pursuant to Article 89, paragraph 2, of the Rules of Court.

I now have the honour to transmit to you herewith the official sealed copy of the Order destined for the Government of Nicaragua and a plain copy of this Order, for your convenience.

Printed copies of the Order will be despatched to you shortly.

**143. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES
D'AFGHANISTAN⁴**

11 septembre 1992.

Le Greffier de la Cour internationale de Justice a l'honneur de transmettre sous pli séparé un exemplaire de chacune des décisions ci-après:

¹ Not reproduced.

² A communication in the same terms was sent to the Agent of Honduras.

³ *I.C.J. Reports 1992*, p. 222.

⁴ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

— arrêt rendu par la Cour le 12 novembre 1991 en l'affaire relative à la *Sentence arbitrale du 31 juillet 1989 (Guinée-Bissau c. Sénégal)*;

— ordonnance prise par le Président de la Cour le 18 décembre 1991 en l'affaire de l'*Incident aérien du 3 juillet 1988 (République islamique d'Iran c. Etats-Unis d'Amérique)*;

— ordonnance rendue par la Cour le 14 avril 1992 en l'affaire relative à des *Questions d'interprétation et d'application de la convention de Montréal de 1971 résultant de l'incident aérien de Lockerbie (Jamahiriya arabe libyenne c. Etats-Unis d'Amérique)*;

— ordonnance rendue par la Cour le 14 avril 1992 en l'affaire relative à des *Questions d'interprétation et d'application de la convention de Montréal de 1971 résultant de l'incident aérien de Lockerbie (Jamahiriya arabe libyenne c. Royaume-Uni)*;

— ordonnance rendue par la Cour le 14 avril 1992 en l'affaire du *Différend territorial (Jamahiriya arabe libyenne/Tchad)*;

— ordonnance rendue par la Cour le 27 mai 1992 en l'affaire relative à des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*;

— ordonnance prise par le Président de la Cour le 5 juin 1992 en l'affaire de l'*Incident aérien du 3 juillet 1988 (République islamique d'Iran c. Etats-Unis d'Amérique)*;

— ordonnance rendue par la Cour le 19 juin 1992 en l'affaire relative au *Timor oriental (Portugal c. Australie)*;

— ordonnance rendue par la Cour le 19 juin 1992 en l'affaire relative à des *Questions d'interprétation et d'application de la convention de Montréal de 1971 résultant de l'incident aérien de Lockerbie (Jamahiriya arabe libyenne c. Etats-Unis d'Amérique)*;

— ordonnance rendue par la Cour le 19 juin 1992 en l'affaire relative à des *Questions d'interprétation et d'application de la convention de Montréal de 1971 résultant de l'incident aérien de Lockerbie (Jamahiriya arabe libyenne c. Royaume-Uni)*;

— ordonnance rendue par la Cour le 26 juin 1992 en l'affaire de la *Délimitation maritime et des questions territoriales entre Qatar et Bahreïn (Qatar c. Bahreïn)*;

— arrêt rendu par la Cour le 26 juin 1992 en l'affaire de *Certaines terres à phosphates à Nauru (Nauru c. Australie)*;

— ordonnance prise par le Président de la Cour le 29 juin 1992 en l'affaire de *Certaines terres à phosphates à Nauru (Nauru c. Australie)*.

D'autres exemplaires de ces décisions seront expédiés par la voie ordinaire.

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