

The representative of the United Arab Emirates stated that disagreement on or disapproval of a given political or economic system should not be used as a pretext for violating the rules of conduct among States, because the result would be chaos where third world countries would be the first victims. He recalled the provisions of Article 33 of the Charter of the United Nations and supported the efforts of the countries of the Contadora Group which, in his view, were better able to understand the circumstances and causes of the crisis. He could not support any unilateral action outside the framework of the provisions of the Charter, more notably those relating to the Security Council machinery. He noted Nicaragua's responsiveness and its desire to negotiate, and called for the United States to reconsider its position. As the volatile situation in Central America threatened not only peace and security, he considered that it was the primary responsibility of the Council to halt and settle such conflicts permanently and comprehensively. He reaffirmed his country's rejection of threats to the independence and sovereignty of States on the pretext of the East-West conflict and the imposition of any conditions on their independence and political options.³²

³²*Ibid.*, pp. 33-38.

At the 2698th meeting, the representatives of Algeria, Guyana and Yugoslavia denounced actions aimed at the destabilization of the Government of Nicaragua and joined other non-aligned countries in their support of the efforts of the Contadora Group and of the Judgment of the International Court of Justice. They called for a peaceful solution to the dispute.³³

The representative of the Libyan Arab Jamahiriya strongly denounced the approval of funds by the United States House of Representatives for assistance to the Contras. According to him, such funds could be used to undertake a direct invasion of Nicaragua. He rejected the use of the pretext of collective self-defence and called upon the Security Council to exercise the powers vested in it by the Charter in order to put an end to the policy of blackmail and force pursued by the United States all over the world, including Latin America, Africa, Asia and the Mediterranean.³⁴

The representatives of Trinidad and Tobago and Afghanistan supported the position of Nicaragua and called upon the parties to act according to the findings and Judgment of the International Court of Justice.³⁵

³³S/PV.2698, pp. 3-18.

³⁴*Ibid.*, pp. 18-25.

³⁵*Ibid.*, pp. 26-33.

27. LETTER DATED 22 JULY 1986 FROM THE PERMANENT REPRESENTATIVE OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

INITIAL PROCEEDINGS

Decision of 31 July 1986 (2704th meeting): rejection of a draft resolution submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates

By a letter¹ dated 22 July 1986 addressed to the President of the Security Council, the representative of Nicaragua requested the convening of a meeting of the Council.

By a previous letter² dated 11 July 1986 addressed to the President of the Council, the representative of Nicaragua transmitted the text of the Judgment of the International Court of Justice dated 27 June 1986 in the case *Military and Paramilitary Activities in and against Nicaragua*.

By a letter³ dated 18 July 1986 addressed to the Secretary-General, the representative of the United States of America transmitted the text of the separate and dissenting opinions on the Judgment of the International Court of Justice dated 27 June 1986 in the case *Military and Paramilitary Activities in and against Nicaragua*.

At its 2700th meeting, on 29 July 1986, the Council included in its agenda the letter dated 22 July 1986 from the representative of Nicaragua. Following the adoption of the agenda, the President, with the consent of the Council, in-

vited the representatives of Afghanistan, Cuba, Czechoslovakia, Democratic Yemen, El Salvador, Honduras, India, the Islamic Republic of Iran, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Poland, the Syrian Arab Republic, the Ukrainian Soviet Socialist Republic, the United Republic of Tanzania, Viet Nam and Zimbabwe, at their request, to participate in the discussion without the right to vote.⁴

At the same meeting, the representative of Nicaragua,⁵ while reiterating the decision of the International Court of Justice in the case of Nicaragua and the United States, recalled that in its principal Judgment, the Court had decided that the United States had acted against Nicaragua in breach of its obligation under customary international law: not to intervene in the affairs of another State; not to use force against another State; not to violate its sovereignty and not to interrupt peaceful maritime commerce. The Court had decided that there was no legal justification for any of those activities. The Court had also explicitly rejected the justification of collective self-defence maintained by the United States in connection with the military and paramilitary activities in and against Nicaragua. He further stated that, as a result of those decisions, the Court had ordered the United States to cease and desist immediately from all those illegal activities and to compensate Nicaragua for the damages suffered. Stressing the Court's

¹S/18230.

²S/18221.

³S/18227.

⁴For details, see chap. III of the present *Supplement*.

⁵S/PV.2700.

finding that Nicaragua had never made any binding legal commitment to the Organization of American States (OAS) in connection with its internal political system, he pointed out that, in what constituted the most important paragraph in its decision, the Court had declared that the United States' discontent with Nicaragua's political, social and economic system could not give it any right to intervene in Nicaragua's internal affairs. He reiterated that his delegation had come before the Security Council to seek a peaceful and honourable solution to the differences between Nicaragua and the United States; that his country had made every possible effort to guarantee the success of the peaceful endeavour of the countries of the Contadora Group and the Lima Group on behalf of Latin America. Finally, stating that Nicaragua was prepared immediately to undertake negotiations with the United States Government in order to overcome existing problems and normalize relations, he concluded that Nicaragua was only asking for a declaration of support for the International Court of Justice and for law in international relations.

The representative of El Salvador stated that his delegation could not refrain from speaking, since it was difficult, if not impossible, to establish limits in the apparently bilateral controversy being discussed, and separate it from the regional problem involving interrelated, often inflexible factors and forces opposed to change of attitude, all of which affected the crisis in Central America. Stressing that direct and indirect support given by the Sandinistas had enabled armed groups to maintain the military capacity to adopt intransigent positions, causing vast damage to the economic infrastructure and population of El Salvador, he maintained that his country had been the victim of continuing aggression on the part of the Government of Nicaragua. Therefore, his country, which was small, without the means to confront aggression for very long and obliged to defend its sovereignty and institutionality, had in self-defence sought assistance and international cooperation through bilateral channels. However, El Salvador had refrained from appealing to the Council because other forums for the consideration of regional problems had not yet been fully utilized. Emphasizing that, in his Government's opinion, Nicaragua remained a destabilizing factor because of its approach, conduct and activities in the framework of the international legal-political structure and the exercise of power and democracy, he pointed out that the situation in Nicaragua, its ideological and political system, its relations with the United States and the commitments and/or military political indebtedness by the Sandinista Front to armed groups in El Salvador did not justify intervention by Nicaragua in the internal affairs of El Salvador.

The representative of the United States, while regretting that Nicaragua had sought to misuse the Court, maintained that the case concerned was inappropriate for judicial resolution. The Court had been asked to address one small, carefully selected part of the crisis in Central America, he said. Maintaining that the only way to solve the crisis was through negotiations involving all parties, he further stated that his delegation believed that the Court had fundamentally misperceived the situation in Central America. It was simply wrong on many of its facts, and the Court's adoption of the relevant international law was seriously flawed in important respects. Stressing that Nicaragua would continue to be torn by strife unless and until there was genuine reconciliation reached through a process of negotiation, he

continued that such negotiation was as necessary in solving the crises in Central America as the negotiations between Nicaragua and the other Central American Governments. He maintained that the United States had consistently supported efforts to achieve a comprehensive settlement of the crisis in Central America. It supported the Contadora process and would abide by a comprehensive, verifiable and simultaneous implementation of the 1983 Contadora Document of Objectives. He said that the United States had long sought meaningful negotiations with the Sandinista Comandantes, and noted that the communiqué adopted by the Coordinating Bureau of the countries of the non-aligned movement in New York on 28 July 1986, which was a one-sided espousal of Sandinista views, was astonishing and disturbing. It made demands only on the United States and asked nothing of the Nicaraguans. He reiterated that the alignment of the non-aligned against the United States, the use of double standards by the non-aligned, once again demonstrated by that document, seriously undermined the concept of true non-alignment.⁶

The representative of India, while conveying the text of the communiqué issued by the Coordinating Bureau of the Movement of the Non-Aligned Countries at its meeting held in New York on 28 July 1986, stated that the Bureau had expressed its satisfaction with the Judgment of the International Court of Justice and had made an urgent and strong appeal to the United States to comply strictly and immediately with that Judgment. It had also urged the United States to resume talks with Nicaragua as a means of reaching a specific agreement on peace in the region and reaffirmed its support of the efforts of the Contadora Group and the Support Group towards finding a political, peaceful and negotiated solution to the crisis in Central America.

The representative of the Soviet Union stated that a peaceful settlement in Central America was possible only if account was taken of the legitimate security interests of the countries of the region, of the need to remove military bases, to withdraw foreign troops and to put an end to the use of a country's territory for intervention in the internal affairs of another. He said that the Soviet Union had consistently advocated that Central America's problems be solved by the States of the region themselves, by political methods and constructive talks. He further recalled that a number of the basic requirements for a political settlement in Central America had been reflected in Security Council resolution 562 (1985).⁷

The representative of Honduras stated that the Government of Nicaragua had submitted to the International Court of Justice an unproductive request for a ruling against the Government of Honduras. He said that the internal conflicts which remained unsolved in Nicaragua and the arms race undertaken by that country had considerably changed the security balance which existed in Central America and which was a factor of peace. He charged that Nicaragua was not only infiltrating subversive groups into Honduran territory in order to incite guerrilla warfare against the established democratic Government, but it was also training those insurgents to destabilize other democratic Governments in the region. He added that Nicaragua had also

⁶S/PV.2701.

⁷S/PV.2702.

committed innumerable direct violations against the sovereignty and territorial integrity of Honduras. Maintaining that the Nicaraguan policies had brought about popular unrest in Nicaragua and the appearance of insurgent groups of Nicaraguans fighting the abuses of the Sandinista Government, he stated further that the internal conflict in Nicaragua was not contained within its borders and led to additional tension with neighbouring countries: the Sandinista Government had been carrying out a policy of disrupting border settlements and persecuting indigenous Nicaraguans of Miskito origin, thus creating a mass exodus of refugees towards neighbouring countries. The internal conflict in Nicaragua had also led to the displacement of thousands of Honduran peasants who had been living in the border areas.⁸

The delegate of China opposed the act of interference in the internal affairs of Nicaragua and hoped that the United States Government would respect the ruling of the International Court of Justice. He stated that the problem between the United States and Nicaragua had to be solved through peaceful negotiations on an equal footing. He supported the efforts by the Contadora Group and the Support Group.

The representative of Venezuela, also speaking on behalf of other members of the Contadora Group (Colombia, Mexico and Panama), and the Support Group (Argentina, Brazil, Peru and Uruguay), stated that they attached great importance, among other principles, to the renunciation of the threat or use of force in relations among States, and the peaceful settlement of all international disputes. He reiterated that the Contadora initiative had been inspired by those principles stated in Article 5, paragraphs (a), (b), (c), (d) and (j) of the Charter of the Organization of American States. He stressed that the support given to the Contadora initiative by the United Nations General Assembly, the Security Council and many States from various regions of the world was a powerful form of encouragement for its actions to achieve peace. He further emphasized the appropriateness of dialogue between all the parties concerned and the readiness of the Contadora Group to continue in its efforts to achieve a peaceful, negotiated solution to the problems of the region.

In the course of the 2701st and 2704th meetings, a number of speakers⁹ called upon the United States to abide by the rulings of the International Court of Justice. Many stated that the United States' use of force against Nicaragua was a violation of the Charter of the United Nations. They urged the Security Council to assume its responsibilities and help facilitate peaceful settlement of the problem in the region. They also urged the Council to give support to the Contadora Group. Several speakers maintained that the United States claim of collective self-defence was unjustified in this case.

At the 2704th meeting, on 31 July 1986, the President drew the attention of the Council to the text of a draft reso-

lution¹⁰ submitted by the Congo, Ghana, Madagascar, Trinidad and Tobago and the United Arab Emirates.

Under the draft resolution, the Council would recall resolution 530 (1983) and resolution 562 (1985); would take note of the Order of 10 May 1984 of the International Court of Justice (S/16564), its Judgment of 26 November 1984 and the final Judgment of the Court on *Military and Paramilitary Activities in and against Nicaragua* on 27 June 1986.³ Further, the Council, being made aware that, according to the Charter of the United Nations, the International Court of Justice is the principal judicial organ of the United Nations and that each Member State undertakes to comply with the decision of the Court in any case to which it is a party, would also recall all the relevant principles of the Charter of the United Nations; and while recognizing the repeated efforts made by the Contadora Group and the Support Group, the Council would: reaffirm the role of the International Court of Justice as the principal judicial organ of the United Nations and a means for peaceful solution of disputes; make an urgent and solemn call for full compliance with the Judgment of the International Court of Justice of 27 June 1986;³ recall the obligation of all States to seek a solution to their disputes by peaceful means in accordance with international law; call upon all States to refrain from carrying out, supporting or promoting political, economic or military actions of any kind against any State of the region that could impede the peace objectives of the Contadora Group; and finally, would request the Secretary-General to keep the Security Council informed of the implementation of the present resolution.

Speaking in explanation of vote before the vote, the representative of the United Kingdom stated that the best hope of bringing about a solution lay in the signature of a comprehensive agreement based on the 21 Contadora objectives and subject to adequate verification and control. Stressing that, in order to prevent further deterioration of the situation in the region, all the Central American States, including Nicaragua, had to demonstrate the necessary political will to reach agreement on the basis of the 21 Contadora objectives; he noted that Nicaragua's actions over the past year and more had given a strong impression of selectivity in its approach to the commitments needed to make a reality of the Contadora principles. He maintained that the failure of the debate and the draft resolution to address such considerations as above demonstrated a lack of balance. He said that the Nicaraguan letter and the debate had raised two issues, one legal, one political. These issues tended to paint two different conclusions as regards voting. This being so, and because his delegation could not countenance anything that suggested that the Central American problem was only a bilateral United States-Nicaraguan question, his delegation would abstain, he concluded.¹¹

At the same meeting, the President put the draft resolution to a vote; it received 11 votes to 1, with 3 abstentions, and was not adopted owing to the negative vote of a permanent member of the Council.

The representative of France, in explaining his vote after the vote, stated that the draft resolution contained certain

⁸S/PV.2704.

⁹S/PV.2701: Democratic Yemen, p. 27; Czechoslovakia, p. 32; the Syrian Arab Republic, pp. 33-38; S/PV.2702: Cuba, pp. 5 and 6; Viet Nam, pp. 9 and 10; Poland, p. 17; Lao People's Democratic Republic, pp. 24 and 25; S/PV.2703: Bulgaria, p. 8; the Libyan Arab Jamahiriya, pp. 12-17; the Republic of Tanzania, pp. 21-23; Ukrainian SSR, p. 30; Afghanistan, pp. 32 and 33; Zimbabwe, pp. 34-41; S/PV.2704: the Congo, pp. 6-10; Ghana, pp. 11 and 12; Madagascar, p. 36.

¹⁰S/18250.

¹¹S/PV.2704.

objectionable elements relating, in particular, to the Judgment of 27 June of the International Court of Justice, with respect both to the role of the Court and to substance, elements which could not receive unanimous agreement, and, therefore, his delegation had been forced to abstain in the vote on the draft.

The representative of the United States maintained that his delegation had been compelled to vote against the draft resolution because it could not and would not have contributed to the achievement of a peaceful and just settlement of the situation in Central America within the framework

of international law and the Charter of the United Nations. The draft contained no reference to Nicaragua's solemn undertakings; it contained no reference to Nicaragua's own responsibility for the situation in Central America and, by focusing on the 27 June decision of the Court, presented a false picture of that situation as if it were limited to differences between Nicaragua and the United States. He further stated that he had voted against the draft because it would have painted an inaccurate picture of the true situation in Central America.

28. LETTER DATED 17 OCTOBER 1986 FROM THE PERMANENT REPRESENTATIVE OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

INITIAL PROCEEDINGS

By a letter¹ dated 17 October 1986, addressed to the President of the Security Council, the representative of Nicaragua requested an emergency meeting of the Council, in accordance with the provisions of Article 94 of the Charter, to consider the "non-compliance" by the United States with the Judgment of the International Court of Justice dated 27 June 1986 concerning *Military and Paramilitary Activities in and against Nicaragua*.

Decision of 28 October 1986 (2718th meeting): rejection of five-Power draft resolution

At the 2715th meeting, on 21 October 1986, the Council included the item in its agenda.² In the course of the discussions the President, with the consent of the Council, invited the representatives of Algeria, Argentina, Cuba, Democratic Yemen, Guatemala, Honduras, India, Iraq, the Islamic Republic of Iran, Mexico, Peru, Spain, the Syrian Arab Republic and Yugoslavia, at their request, to participate in the discussion without the right to vote.³

The question was considered at the 2715th to 2718th meetings, held on 21, 22, 27 and 28 October 1986.

At the 2715th meeting, the representative of Nicaragua stated that, owing to the failure of all initiatives to halt the United States aggression against his country, Nicaragua had been forced to go to the International Court of Justice and file legal proceedings against the United States for its illegal policy of force and intervention against Nicaragua. He reiterated the Court's ruling regarding the United States questioning of the Court's jurisdiction in the case, which stated that the Court rejected the United States' argument that its conduct was permissible according to the right of collective self-defence established under Article 51 of the Charter of the United Nations. Maintaining that the United States had no grounds whatsoever for failing to abide by the decision of the Court and thereby violating international law, he recalled paragraph 3 of Article 2 of the Charter and also noted that judicial settlement and recourse to the International Court of Justice was one of the fundamental means of peaceful solution of disputes established in Chapter VI of the Charter of the United Nations. He further

emphasized that it was of the utmost importance for the Security Council, the United Nations and the entire international community to remind the United States of its obligation in accordance with Article 94 of the Charter to abide by the Court's ruling, to put an end to its war of aggression against Nicaragua and set in motion the negotiating process the Court had suggested in its decision.⁴

The representative of the United States, while stating that the acceptance of the jurisdiction of the Court was a matter of consent and it was not something that happened as a function of membership in the United Nations pursuant to the Charter or the Statute of the International Court of Justice, further noted that the United States did not accept the proposition that they had consented to the jurisdiction of the Court in the case brought by Nicaragua. Consequently, the United States did not believe that the current item brought by Nicaragua under Chapter XIV, Article 94, of the Charter had any merit. There was nothing in Chapter XIV of the Charter that referred to the question of jurisdiction and nothing anywhere in the Charter that could be said to create consent to jurisdiction where none existed.

He reiterated that the United States policy towards Nicaragua would continue to be based upon that Government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbours: Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies; Nicaragua's build-up of military forces in numbers disproportionate to those of its neighbours; Nicaragua's unlawful support for armed subversion and terrorism; Nicaragua's internal repression and finally its refusal to negotiate in good faith for a peaceful solution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition. Convinced that the Sandinistas' behaviour had demonstrated that the Nicaraguan regime would negotiate seriously with the opposition and its neighbours only when under pressure to do so, he stated further that the United States' assistance to the Nicaraguan democratic resistance was the essential element needed to convince the Government of Nicaragua to enter into such negotiations.⁵

¹S/18415.

²S/PV.2715.

³For details, see chap. III of the present *Supplement*.

⁴S/PV.2715, pp. 4-20.

⁵S/PV.2716, pp. 6-9.