



General Assembly

PROVISIONAL

UN LIBRARY

A/42/PV.67
16 November 1987

NOV.

ENGLISH

UN/... COLLECTION

Forty-second session

GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE SIXTY-SEVENTH MEETING

Held at Headquarters, New York,
on Thursday, 12 November 1987, at 10 a.m.

President: Mr. FLORIN (German Democratic Republic)
later: Mr. MASRI (Vice-President) (Syrian Arab Republic)

- Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua: need for immediate compliance: [30]
 - (a) Report of the Secretary-General
 - (b) Draft resolution

This record contains the original text of speeches delivered in English and interpretations of speeches in the other languages. The final text will be printed in the Official Records of the General Assembly.

Corrections should be submitted to original speeches only. They should be sent under the signature of a member of the delegation concerned, within one week, to the Chief, Official Records Editing Section, Department of Conference Services, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

The meeting was called to order at 10.30 a.m.

AGENDA ITEM 30

JUDGMENT OF THE INTERNATIONAL COURT OF JUSTICE OF 27 JUNE 1986 CONCERNING MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA: NEED FOR IMMEDIATE COMPLIANCE

- (a) REPORT OF THE SECRETARY-GENERAL (A/42/712)
- (b) DRAFT RESOLUTION (A/42/L.23)

The PRESIDENT (interpretation from Russian): I propose that the list of speakers in the debate on this item should be closed today at noon. If there is no objection, I shall take it that the Assembly so decides.

It was so decided.

Mrs. ASTORGA GADEA (Nicaragua) (interpretation from Spanish): Our presence here this morning at a meeting at which the Assembly is to begin considering agenda item 30, entitled "Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua: need for immediate compliance", is prompted by two fundamental motives: first, the extraordinary importance that my country attaches to international law and to the International Court of Justice as the highest international judicial body and the importance we attach to the principles and provisions of the Charter concerning relations between States; secondly, the renewed importance of compliance with the historic Judgment of 27 June 1986 in the light of the present Central American situation and the recent efforts of Central American countries to bring a lasting and firm peace to the region after the signing of the Esquipulas II Agreements of 7 August 1987.

When the President of the Republic of Nicaragua came to New York last year and spoke to the Security Council to request the necessary action to ensure compliance with that Judgment, he said:

(Mrs. Astorga Gadea, Nicaragua)

"Whenever a State rejects or disregards international law, we see a strengthening of the dangerous trend to replace that law by the will of the mightiest - in other words, by the law of the jungle.

"When the highest level instrument of the United Nations, the world's highest tribunal - the International Court of Justice - hands down a ruling defining international law or applying it to a specific case, it should be the responsibility of all States desirous of preserving and maintaining the international legal order to support that decision." (S/PV.2700, p. 7)

Those words ring as true today as they did then. When Nicaragua decided to submit to the International Court of Justice the case of the United States aggression against my country, it was thinking not only of our own particular case, certain that law and reason were on our side, but also of all the peoples and nations of the world, particularly the small and weak, the non-aligned countries, all countries whose security and survival are based on unqualified respect for international law and the principles of the Charter. In so doing, we were reaffirming our total and absolute confidence in the machinery of the Charter of the United Nations for the peaceful settlement of disputes and the hallowed principle of the obligation of States to resolve their differences in a civilized manner.

The Court's Judgment of 27 June 1986 does nothing more than reaffirm the validity and binding nature of those principles, principles which continue to be flagrantly violated in the specific case of Nicaragua. Those principles are: non-use of force or the threat of force in international relations; non-intervention and non-interference in the internal affairs of other States; the sovereign equality of States; the self-determination of peoples; the obligation to make use of peaceful means to resolve disputes between States; good-faith

(Mrs. Astorga Gadea, Nicaragua)

compliance with international obligations and due respect for treaties. In short, what the Court did in the case of Nicaragua versus the United States was to reaffirm that there had been a violation of the Charter of the United Nations through a series of acts against the Republic of Nicaragua and that consequently those acts should immediately cease.

What happens, then, if those basic principles are violated with impunity and continue to be violated even after the Judgment of the Court? What happens when the one violating those principles and rules is, moreover, a super-Power and a permanent member of the Security Council? International life, international relations as a whole are at risk. There is no security. There is no way to foresee the future when that country, with incomparable military might, becomes an international delinquent, arrogating to itself the right to impose its own law, to make its own judgements and to put into effect its own arbitrary decisions.

The non-compliance with the Judgment of the International Court of Justice of 27 June 1986 is clear. In one of its most important parts, the Judgment states that:

(spoke in English)

"the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another

(Mrs. Astorga Gadea, Nicaragua)

(continued in Spanish)

The Court likewise directed that all those acts of aggression should cease and ordered the United States to make reparation to Nicaragua

(spoke in English)

"for all injury caused to Nicaragua by the breaches of obligations under customary international law ...".

(Mrs. Astorga Gadea, Nicaragua)

(continued in Spanish)

The United States not only has failed to respond to Nicaragua's invitations to reach agreement on the amount of reparations for actions committed before the Judgment but has continued its support to the contras and has disregarded the appeal of the Court that the parties should resolve their differences by peaceful means.

Indeed, only a few weeks after the Judgment was handed down, the Congress of the United States, at the request of that country's Administration, approved the sum of \$100 million to continue support for the contras and their policy of terrorism, death and destruction.

In May 1987, and again on 30 October 1987, the United States Administration renewed its trade embargo against Nicaragua, in flagrant violation of the Judgment of the Court, which states:

(spoke in English)

"The United States ... by ... declaring a general embargo on trade with Nicaragua ... has acted in breach of its obligation under article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956". (S/18221, p. 140)

(continued in Spanish)

More recently, on 1 October 1987, the United States Congress approved the sum of \$3.5 million as part of a continuing resolution which remained in force until 10 November. Another continuing resolution earmarking \$3.2 million was approved on 5 November and will remain in force from 10 November until 16 December 1987. All of this had the same purpose: to continue the illegal policy against Nicaragua. President Reagan himself said on 7 October to the Organization of American States (OAS):

(Mrs. Astorga Gadea, Nicaragua)

(spoke in English)

"I make a solemn vow ... as long as there is breath in this body, I will speak and work, strive and struggle, for the cause of the Nicaraguan freedom fighters ... I will request and fight for a \$270 million package of renewed military and humanitarian assistance for the freedom fighters that will be spread over an 18-month period".

(continued in Spanish)

A reflection of that decision to continue the present war and destruction is the already announced intention of the United States Administration to request another \$30 million for what it terms humanitarian aid. That request would be supplemented by another for \$270 million, the sum which President Reagan mentioned to OAS and which is to be requested, according to information from the White House, as from January 1988.

It is noteworthy that throughout this time the Central Intelligence Agency has been using its own funds, which are not subject to any scrutiny, to finance its counter-revolutionary groups. We shall not dwell on the widespread private network with international ramifications that was managed from the basement of the White House.

To all this we must add the constant violations of our airspace, through reconnaissance and supply activities, and the violation of our maritime sovereignty by United States vessels engaged in espionage.

During the period between 7 August and 3 November of this year alone, we detected 275 supply and/or reconnaissance flights, of various origins, directly related to counter-revolutionary terrorist activities.

The United States, for its part, has engaged in intensive radio-electronic reconnaissance, anti-submarine missions and strategic reconnaissance missions with sophisticated aircraft, which from 1986 to the present have totalled 378.

(Mrs. Astorga Gadea, Nicaragua)

Naval activity has also been intensive. We continually have within our seas the presence of United States reconnaissance vessels, Coast Guard cutters and frigates.

These activities have been not only maintained but increased, although the International Court of Justice, in its Judgment, declared:

(spoke in English)

"... that the United States of America, by directing or authorizing over-flights of Nicaraguan territory ... has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to violate the sovereignty of another State". (S/18221, p. 138)

(continued in Spanish)

This war, originating in an imperialist policy of State terrorism, has claimed more than 50,000 victims and caused material damage exceeding \$2.8 billion. These figures are indicative of the devastating effects of this cruel and inhuman policy and demonstrate the extremely high cost that our people have had to pay in order to preserve their right to be free, sovereign, independent and non-aligned in the face of the obstinate determination of the present United States Administration to persist in its lawless conduct, in its attempts to destroy our country and overthrow our legitimate Government.

The United States Administration has used a series of arguments to try to justify its policy of aggression against Nicaragua, to reject the Judgment of the Court and disdainfully to disregard the obligation to comply fully with it. The Court, in its wise and profound consideration, rejected each of those arguments.

In the first place, there is the argument of lack of jurisdiction, which was rejected by a decision of the Court on 26 November 1984, pursuant to Article 36, paragraph 6, of the Statute of the Court - to which the United States is a party - which reads:

(Mrs. Astorga Gadea, Nicaragua)

"In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court".

Thus, decision as to the jurisdiction of the Court lies not with any country or with any other body but with the Court itself, and accordingly, the Court decided that it did have jurisdiction, first, on the basis of the declaration made by the United States on 26 August 1946, in which it declared its acceptance of the jurisdiction of the Court, in conformity with the provision in the optional clause of Article 36, paragraph 2, of the Statute, and, secondly, on the basis of article XXIV of the Treaty of Friendship, Commerce and Navigation signed by both parties in Managua on 21 January 1956, as is stated in the same Judgment of 27 June 1986.

The Court pointed out that after initiating proceedings, both bases of competence had been denounced by the United States, although it ultimately said that those circumstances nevertheless were without effect on the competence of the Court conferred upon it by the above-mentioned articles of the Statute and the Treaty of Friendship, Commerce and Navigation.

It is curious that up to that moment the United States had participated in the proceedings. It was as a result of that reversal that the United States notified the Court on 18 January 1985 that it was withdrawing from the case. In that connection, the Court itself, in the body of its Judgment, declared:

"It is not possible to argue that the Court had jurisdiction only to declare that it lacked jurisdiction. In the normal course of events, for a party to appear before a court entails acceptance of the possibility of the Court's finding against ..." it.

and that:

(Mrs. Astorga Gadea, Nicaragua)

"The fact that a State purports to 'reserve its rights' in respect of a future decision of the Court, after the Court has determined that it has jurisdiction, is clearly of no effect on the validity of that decision."

(S/18221, p. 12)

Then there is the argument of self-defence. The United States Administration has sought to disguise its aggression against Nicaragua as an act of collective self-defence, because Nicaragua, it alleges, is sending weapons to the Salvadorian revolutionaries and is thereby attacking El Salvador. In this connection, the Court found that:

"... the evidence submitted is insufficient to satisfy the Court that ... the Government of Nicaragua was responsible for any flow of arms ..." (S/18221, p. 75)

to the Salvadorian revolutionaries.

(Mrs. Astorga Gadea, Nicaragua)

Similarly, the argument was rejected that Nicaragua is ostensibly violating undertakings it accepted in 1979, upon the victory of the Revolution, with the Organization of American States. The Court found that Nicaragua had not assumed any kind of commitment and that, even if it had done so, on the one hand, my country had complied with this and, on the other hand, the United States did not have the ability to judge or determine whether Nicaragua had complied with them.

Another line of argument used by the United States Administration prompted the following response from the Court:

"However the régime in Nicaragua be defined, adherence by a State to any particular doctrine does not constitute a violation of customary international law; to hold otherwise would make nonsense of the fundamental principle of State sovereignty, on which the whole of international law rests, and the freedom of choice of the political, social, economic and cultural system of a State ... The Court cannot contemplate the creation of a new rule opening up a right of intervention by one State against another on the ground that the latter has opted for some particular ideology or political system." (S/18221, para. 263)

These have been the arguments and excuses, as well as others, that our great neighbour of the North has used to try to provide political foundation for its war of aggression against Nicaragua. The last of these is that the war goes on so long as there is not in Nicaragua a democracy to the liking of the United States.

I wonder, who gave the United States the right to judge? Who gave the United States the right to grant a patent on democracy? Who has given the United States the right to commit aggression? One excuse after another. One illegal act after another. The use of the name of God in vain, death and destruction for those of us who simply wish to live in peace.

(Mrs. Astorga Gadea, Nicaragua)

The delegation of Nicaragua has submitted for the consideration of the General Assembly draft resolution A/42/L.23, in which the Assembly reiterates the urgent appeal that there be full and complete implementation of the Judgment of the International Court of Justice of June 1986 in conformity with the relevant provisions of the Charter of the United Nations. We hope that we shall have the support of everyone.

On 7 August, the five Central American Presidents signed a procedure for the establishment of a firm and lasting peace in Central America, which initiates a new and decisive phase in the struggle of the Central American peoples to attain peace, democracy, justice and economic and social development without foreign interference. These agreements are evidence of the will for peace that motivates the Central American Governments and a genuine exercise of sovereignty and independence, which once again runs counter to the policy based on the use of force, blackmail and blockages of the political and diplomatic efforts designed to resolve the crisis.

"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." (A/42/521, p. 6)

The only way to comply with that action, which our Presidents qualify as indispensable, and to ensure the fulfilment of the process that began on 5 November and to make certain that it is not frustrated, would be for the United States fully to comply with the Judgment of the International Court of Justice and, accordingly, may I be permitted once again to quote another important provision of the Esquipulas II Agreement:

(Mrs. Astorga Gadea, Nicaragua)

"The elements set forth in this document form a harmonious and indivisible whole. By signing it, the Central American States accept in good faith the obligation to comply simultaneously with what has been agreed within the established time-limits." (A/42/521, p. 9)

The International Verification and Follow-up Commission, the sole body entrusted with the task of judging whether the obligations contracted in Guatemala had been fulfilled, is made up of the foreign ministers of Argentina, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Uruguay and Venezuela, and the Secretaries-General of the United Nations and the Organization of American States (OAS). At its last meeting in Washington, on 7 November, the Commission presented an initial evaluation of the progress made in carrying out the obligations contracted by our Presidents in Guatemala and expressed its appreciation for the various measures thus far adopted by the Governments of the region.

Peace, therefore, is not a distant hope; it is a reality which is readily at hand. It is a right which falls to us and which we are conquering day by day in Central America with the efforts of each one of our Governments, within the framework of the commitments we undertook in the Esquipulas agreements.

In this historic situation, the United States once again faces a dramatic choice: to assist in these efforts by giving up what has been an immoral and illegal policy, rejected by its own people and condemned by the International Court of Justice, or, continuing with its policy of state terrorism, which is an infringement of any peace initiative and leads only to regional conflagration, destruction and death.

It is for that reason that we once again have come here to ask the entire international community that it demand total compliance with the Judgment of the International Court of Justice of 26 June 1986, that is to say, compliance with

(Mrs. Astorga Gadea, Nicaragua)

fundamental principles upon which are based international concord and peace, so that Central Americans need not continue to shed their blood in vain, so that our children can enjoy a better future, so that other peoples may sleep in peace and see in Central America the realization of their hopes and an example for their own security.

But, over and beyond this dramatic and complex history of Central America, there is a need to preserve the international legal order at a time which is marked by the exploitation of the weaker by the stronger, and this appears as an indispensable condition for the survival and preservation of international peace and security.

By a clear decision of history, it has fallen to Nicaragua to carry upon its shoulders the formidable task of struggling to ensure that law, justice and reason will prevail for the sake of the weaker.

The same conviction that took us to the highest Court of the world to call for a verdict of justice, which was ultimately given us, brings us to continue with this struggle, which we feel sure will see the dawn when peace is brought to our peoples.

For that hopeful dawn, many thousands of Nicaraguans have given their lives and fallen along the difficult road of preserving their dignity and rights. We are sure that their sacrifice has not been in vain and their blood will enrich the fields where Central Americans will sow the seeds of a future of peace, concord, development and brotherhood.

If I may, I should like to conclude with an optimistic note. I have a dream that this great people, the American people, stand with us on the road to peace and hope, and that this Government will end its aggression against our people.

Mr. ALZAMORA (Peru) (interpretation from Spanish): In the Central American peace process, to which the countries of the Contadora and Support Groups have subscribed from the beginning and which in its final version was unanimously endorsed by the General Assembly last month, the Judgment of the International Court of Justice has played a leading role because, although it has not been complied with, it has had a political and legal effect of the first magnitude on world public opinion and consequently, on the positions of Governments on the Central American question.

Indeed, in declaring what was right and pointing out the responsibilities involved, the Court gave the international community an objective, legal Judgment on a matter often obscured by an ideological campaign and the presence of highly militarized and politicized criteria. At the same time, that Judgment consolidated the principle of non-intervention as an imperative rule of conventional and customary international law, whose observance constituted and continues to constitute a fundamental prerequisite for the solution of the Central American problem.

Since then this Assembly has given its full political support to the Judgment of the Court and its requirement that an end be put to military actions in and against Nicaragua and that the United States and Nicaragua seek a peaceful solution to their dispute in conformity with international law.

The present consideration of the item, which the General Assembly decided to keep on its agenda, finds us involved in an active, promising and advanced phase of the peace process. With the support of all peoples of the world, reflected in the granting of the Nobel Peace Prize to President Arias of Costa Rica for his invaluable contribution to this process, all the Central American countries are making great and valiant efforts to achieve peace.

Every day the world press contains reports of new steps, contributions and advances in this movement towards the establishment of a firm and lasting peace in

(Mr. Alzamora, Peru)

Central America. In that context compliance with the Judgment of the Court is a basic requirement for the realization of the aspiration to peace of the Central American peoples, which the international community has supported in its political and legal forums, and whose historical and universal validity has been well established.

Also and above all, the Judgment of the Court has a universal and permanent value. The super-Powers, and perhaps other Powers, may place their trust in force to guarantee their security, but the medium-sized and small countries can place their trust in international law alone. That is why for us, the developing countries, it is so important and vital to preserve the legal order and strengthen non-intervention and non-use of force in international relations. The Judgment of the Court does this in all its terms with unusual firmness and clarity.

This is a fundamental and all-encompassing issue which, because of its implications for the future of the international system, goes beyond present conflicts and beyond the framework of a given controversy or bilateral dispute and raises a question that this Assembly must resolve: whether or not the United Nations supports the international legal order and whether we are securing the effectiveness of the Charter and the system of guarantees it establishes, which should make it possible for Member States to live together in peace.

Those considerations and their effect upon the peace process endorsed by the Assembly have already led the Assembly to call for compliance with that Judgment, and it now has this item before it again in circumstances that render more necessary than ever the cessation of all activities that may thwart the efforts of the international community in favour of peace.

We trust that the good sense and political realism that seem to be prevailing will make it possible for the peace process in Central America to be consolidated and established within the legal framework set forth by the Court and in the spirit

(Mr. Alzamora, Peru)

of peaceful coexistence incumbent upon countries large and small if we wish to eliminate unnecessary hotbeds of international tension and to reconstitute the framework of regional and continental relations on the basis of understanding, mutual respect, friendship and co-operation.

On this occasion Peru reaffirms its rejection of all forms of intervention in Central America and our dedication to the achievement of a peaceful, political and negotiated solution as agreed upon by the Central American Presidents in Esquipulas II with the support and endorsement of the Contadora and Support Groups and the Secretaries-General of the United Nations and the Organization of American States. We renew our commitment to this process of peace and concord aimed at securing the right of self-determination of all peoples and preserving our sovereignty and independence in security and dignity.

Mr. WALTERS (United States of America): The United States attaches great importance to the work of the International Court of Justice. However, the case brought by Nicaragua against the United States in the International Court of Justice entailed the use, one might say the abuse, of a judicial forum to achieve a political goal. The United States withdrew from the case because the Court had neither jurisdiction nor competence over the subject matter.

Our position on this issue is well founded and well known. It rests on the fundamental principle that the Court's jurisdiction in any case depends on the consent of the parties. The draft resolution we will vote on today has become an irrelevant aside to the peace process now well under way in Central America.

The draft resolution before us is last year's issue. It claims to treat as central to the conflict in Central America an issue that is, in fact, a result of the conflict and peripheral to it.

Dramatic events have unfolded in Central America during the past year which have brought its five nations closer to the goal of achieving peace and democracy

(Mr. Walters, United States)

in their region. The Guatemala Agreement represents the culmination of a lengthy peace process. The road has not been easy. It required difficult decisions for each and every country in the region. The Central Americans made these commitments before the world. For his leadership in the process, President Arias received the Nobel Peace Prize. We laud his efforts.

The United States believes that the Guatemala Agreement signed in Esquipulas can help to bring peace to the region. We have always supported the goals of the 1983 Contadora Document of Objectives, an agreement that is simultaneous in implementation, verifiable and comprehensive. The vision of Esquipulas of freedom, democracy and reconciliation is one all Americans share.

But what, concretely, is meant by freedom and democracy? It must mean the full freedom of the press, of individuals to form political parties and see them flourish, to hold elections, to live without states of emergency. In a free country, people have no need to fear their Government but rather can count on their Government, through their own elected representatives, to represent their best interests.

(Mr. Walters, United States)

Reconciliation - national reconciliation - requires every Government in the region to commit itself to meaningful dialogue with its opposition. It requires a negotiated cease-fire with armed opposition groups and genuine dialogue with political opponents. As these conditions are met, then the Central American nations will deny the use of their territories for military forces that destabilize other Governments. At their request, third parties will be obliged to stop aiding irregular forces.

These commitments are interlocking. They cannot be considered in isolation from one another. A true peace is within our reach, and the opportunity must not be lost. That is why, in 1986 and 1987, the United States endorsed, with other Members of this body, the General Assembly resolutions that supported solving the conflict in Central America. For the same reason, we have objected consistently to efforts designed to isolate one or another factor in the conflict, while excluding other important and central issues.

At its inception in 1979, the Sandinista Government won the support of our regional body, the Organization of American States. The OAS supported the Nicaraguans in their commitments to see democracy take root. The United States endorsed that effort. We were Nicaragua's largest aid donor during that first critical year.

The Sandinistas, however, betrayed their promises of pluralism and democracy and instead set up a virtual one-party State. They sought to destabilize their neighbours. Backed by Cuba and the Soviet Union, the Sandinistas quickly amassed one of the largest military organizations in the Americas to support insurgencies in neighbouring countries. Some of these countries, in turn, sought assistance from the United States, and we came to their aid.

(Mr. Walters, United States)

The United States has no quarrel with the people of Nicaragua. Rather we support the rights of those who want to be able to enjoy the benefits of an open society, or democracy. The Nicaraguan people themselves, not just those in the civic or military opposition, have cried out to the world for help. We have answered because we believe that the cry of freedom should not be silenced.

We believe that Nicaragua's own Constitution provides the guidelines for protection of basic freedoms. We believe that only the pressure of the resistance has brought Nicaragua to the point at which it was willing to sign on the dotted line for peace, to commit itself to taking seriously its own constitutional guarantees of civil liberties. Now that Government must face the test of national reconciliation so that true democracy can take root.

The small steps taken by the Sandinistas to implement the reconciliation and democracy features of the Guatemala accords, while encouraging if part of a larger process, must now move towards culmination in a broader, fuller commitment to the vision of Esquipulas.

The modest programme of individual pardons announced by Nicaragua will free only a small minority of the thousands of political prisoners there. Only a broad amnesty of Nicaragua's thousands of political prisoners will meet the requirements of Esquipulas.

We welcome the acceptance by the Government of Nicaragua of indirect talks with the resistance - but only if it means the Sandinistas are prepared for real negotiations in good faith. As President Reagan said to the Organization of American States Foreign Ministers on 9 November, once the Sandinistas have engaged in serious negotiations with the resistance under the mediation of Cardinal Obando y Bravo, Secretary Shultz will be ready to meet jointly with the five Central American nations, including Nicaragua.

(Mr. Walters, United States)

We would welcome any serious move by the Sandinista régime to end the fighting in Nicaragua. Nicaragua's democratic resistance has taken steps to comply with the agreement and has agreed to a dialogue with the Nicaraguan Government. To give the peace process a chance, President Reagan has announced that we will defer any requests for additional military aid to the resistance until 1988.

Most of the members of the General Assembly represent nations which do not accept the compulsory jurisdiction of the International Court of Justice. Nicaragua never validly consented to the Court's compulsory jurisdiction, and the United States declaration accepting compulsory jurisdiction clearly precluded consideration by the Court of this case. Moreover, the Court lacked the competence to consider the claims, which are reserved by the Charter of the United Nations and the Statute of the Court to resolution through political means. Accordingly, the United States formally withdrew from the proceedings.

We respect the authority of the International Court of Justice to decide cases in which both parties accept jurisdiction. In the present case, however, we continue to believe that the Court's 1984 ruling on jurisdiction and admissibility was clearly and manifestly erroneous as a matter of fact and law. If Nicaragua is serious about the peace process, it will not continue to make propaganda by pressing this case but will instead devote all its energies to implementing fully the Guatemala Agreement so as to bring about a just and lasting peace in the region.

Freedom cannot flourish in an atmosphere of constraint. We call on the Government of Nicaragua to join its fellow Central Americans in creating a democracy that can take root and represent all of the people. The peace process in Central America is advancing. The United Nations has endorsed the process, and so has the United States. The passage of this draft resolution will in no way

(Mr. Walters, United States)

contribute positively towards peace. The United States will be obliged to vote against it.

Mr. PEÑALOSA (Colombia) (interpretation from Spanish): At the outset of my statement I wish to express our condolences, on behalf of the Government and people of Colombia on the death of General Seyni Kountché, President of the Supreme Military Council and Head of State of the Republic of the Niger.

In this century a great effort has been made by political thinkers, jurists and States to provide guidance for the international community by means of rules and principles that might bring an end to the use of force. It is clear that the most difficult part of this task is not drawing up rules and drafting principles but rather ensuring that States will abide by those principles and consent to having their actions scrutinized and judged by competent disinterested parties not involved in the disputes. One thinker said that it was a miracle that a State should submit to legal rules that it had itself formulated. Similarly, it could be said that it is a miracle of law that States should have accepted the existence of international tribunals and that they should abide by their decisions.

The framers of the United Nations Charter, in Article 1, paragraph 1, of that instrument, formulated the main purpose of the United Nations in the following terms:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace".

(Mr. Peñalosa, Colombia)

Article 2, paragraph 3, of the Charter provides that:

"All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."

Article 33, paragraph 1, provides that:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice."

(Mr. Peñalosa, Colombia)

The concept of peaceful means embraces juridical means, which have traditionally included arbitral tribunals and courts of justice. Although arbitration may give the parties the advantage of the greatest flexibility, it cannot go beyond the settlement of a specific dispute to the development of stable case law. Arbitral tribunals have contributed much to the development of international law, but their authority has been limited by their ad hoc nature. That is why, in order to complete the international system, there emerged the idea of creating international courts in the technical sense of the term - that is, permanent tribunals capable of creating a judicial tradition and guaranteeing an acceptable degree of certainty for States prepared to submit their disputes to that means of peaceful settlement.

The stability and permanence of such courts, and consequently the importance of their role in building a more elaborate global system of coexistence, are further strengthened when those courts are set up with the consensus of virtually all the members of the international community. It is therefore not surprising that the inauguration in 1922 of the Permanent Court of International Justice, the first tribunal of that kind, was hailed as an event unprecedented in the history of international law. That was even more true of the creation in 1945 of a new international tribunal, the International Court of Justice, which did not form part of the old order characterized by predominance of the European States in the international community's political and legal affairs and which was, for the first time, directly integrated into a universal organization, constituting one of its main organs.

The Judgments of the Court are binding upon the parties to a dispute, and determination of the Court's competence rests ultimately with the Court, under Article 36, paragraph 6, of its Statute. On signing the Charter, States Members of the United Nations undertake to comply with the decisions of the International

(Mr. Peñalosa, Colombia)

Court of Justice in any dispute to which they are parties, as provided in Article 94, paragraph 1, of the Charter. But the Court's role in maintaining peace is not limited to resolving specific disputes by handing down decisions. Submitting, or considering the submission of, a dispute to the Court is already a step towards a peaceful solution. Moreover, each decision of the Court, generally speaking, emphasizes the role of law in international relations and inevitably contributes to the development of international law. In other words, on the one hand, the very existence of the Court constitutes a condition for peace, and recourse to it - as stated in General Assembly resolutions 171 (II) and 3232 (XXIX) - is a salutary habit, and on the other hand, the Court's decisions undoubtedly influence the behaviour of States and the consolidation or creation of a body of norms that slowly but steadily strengthen international peace.

Colombia, faithful to its tradition of supporting and defending the system of international legal norms, has always contributed to the creation and strengthening of bodies which, within the framework of international organizations, have as their chief function the maintenance of the universal legal order, because it is firmly convinced that the principal means of attaining our common objectives world-wide is compliance with the law.

Fully convinced that the fundamental basis of the international legal order is respect for undertakings given, we believe that all States that have accepted the jurisdiction of the International Court of Justice have an inescapable duty to comply with its decisions, since to do otherwise would endanger the stability of the international order and undermine one of the basic principles of international relations - good faith.

However, in order to strengthen the international system of justice, it is essential that all Member States should unconditionally accept the Court's jurisdiction. Although Colombia has accepted its binding jurisdiction since 1937,

(Mr. Peñalosa, Colombia)

we are concerned at the fact that, of the permanent members of the Security Council, only the United Kingdom has accepted the Court's binding jurisdiction.

Nevertheless, we feel great optimism as a result of the position taken by General Secretary Gorbachev, who, in an article circulated in the General Assembly on 17 September, called upon all Member States to recognize the Court's binding jurisdiction and said that the first step in that direction should be taken by the permanent members of the Security Council.

Similarly, we enthusiastically welcomed the statement of the representative of the United States in the Assembly two weeks ago, when he said that his country would be prepared to join the Soviet Union, or any other State, in broadening the Court's binding jurisdiction.

In keeping with Colombia's long-standing tradition of respect for international law and with the criteria I have described, and in an effort to bring about a world ruled by law rather than by force, we shall vote for the draft resolution.

Mr. BELONOGOV (Union of Soviet Socialist Republics) (interpretation from Russian): The General Assembly's discussion of the Judgment of the International Court of Justice concerning military and paramilitary activities in and against Nicaragua reminds us again that laying the foundations for comprehensive security, as well as the settlement of conflicts, requires guaranteeing peace by exclusively political means. Equal security for large and small States can be achieved only if the use of force in international relations is renounced, on the basis of a universal legal order in which a commitment to international law and to the norms of civilized behaviour by States prevails over their narrow political interests, power politics and military "solutions".

(Mr. Belonogov, USSR)

The search for solutions to pressing problems equally urgently requires fuller use to be made of all the resources offered by the machinery of the United Nations, including the International Court of Justice, which is designed to be one of the major guarantors of peace and co-operation among States. Our attitude to the role of this unique judicial body and our faith in its broad possibilities were set forth in an article written for this session of the General Assembly by Mr. Gorbachev, entitled "Reality and safeguards for a secure world".

It is obvious that only unswerving observance of the fundamental principles of international law and readiness to solve problems through negotiations on a basis of equality can help to protect the sovereignty of all States, particularly small States, from outside intervention. It was precisely this approach that consistently guided Nicaragua in its request to the International Court of Justice to consider its complaint about the illegal actions of the United States. For a number of years now the United Nations has observed the determination of that non-aligned State consistently to have recourse to the possibilities offered by the United Nations Charter to protect its sovereignty and normalize the situation in the region.

It would be no exaggeration to say that Nicaragua's recourse to the International Court of Justice has been perceived as a manifestation of its commitment to the purposes and principles of the Organization and its desire to bring about a settlement by peaceful means. A few days ago that goodwill was once again confirmed by President Daniel Ortega of Nicaragua, when he called upon the United States to resume bilateral discussions with his country.

The General Assembly is well aware that as a result of almost two years of scrupulous and thorough consideration the International Court of Justice handed down a detailed Judgment which states unambiguously that by training, arming,

(Mr. Belonogov, USSR)

supplying and financing the contras the United States has been violating the norms of international law, its obligations under the United Nations Charter and other multilateral and bilateral agreements. Citing an impressive list of illegal actions against Nicaragua, such as the mining of its territorial waters, violations of its air space and attacks on ports and other economic facilities, the International Court of Justice rejected as untenable the claim by the United States to arbitrary exercise of the right to collective self-defence. Nicaragua has to protect itself against the aggressive actions of the United States and it has the full right to use for this purpose all necessary measures.

The concern of the overwhelming majority of States at the situation that now exists around Nicaragua was expressed in the support given by the General Assembly to resolution 41/31, which contains an urgent appeal for full and immediate compliance with the Judgment of the International Court of Justice in the case of military and paramilitary activities in and against Nicaragua. Only three Members of the United Nations voted against the resolution last year, thus opposing the clearly expressed will of the international community.

The urgent appeals of the General Assembly, all peace-loving States, the Non-Aligned Movement and various international forums, political parties, public organizations and eminent persons have so far, however, not produced an appropriate response from Washington. The Secretary-General has sounded a note of alarm in his report when he notes that

"there has been no change in the situation since the adoption of resolution 41/31". (A/42/712, para. 2)

The reason for that assessment is that, in line with its policy of disregarding the Judgment of the International Court of Justice, the United States is stubbornly

(Mr. Belonogov, USSR)

refusing to comply with its provisions regarding the cessation of the undeclared war against Nicaragua. Such an approach cannot but be condemned by our Organization.

The search for peace means renunciation of confrontational stereotypes in the case of Central America. It means viewing the problem in the light of the new, encouraging realities which have come into existence since the signing of the Guatemala Agreement by the five Presidents of the region. The United Nations has welcomed this agreement as a sensible compromise which expresses the will of Central Americans and makes it possible to set about resolving the conflict situation. It is worth recalling that the resolution adopted by consensus at this session in support of the second Esquipulas Agreement also, in a manner of speaking, bears the signature of the United States of America.

It is clear that the position taken by the United States will largely determine further developments in the situation in the region where there is now hope of the long-awaited peace. The question is whether the United States, in deeds and not just in words, will be prepared to respect the will of the sovereign nations or will continue to pursue an interventionist policy in defiance of Central America and the whole world. It is the bounden duty of all Members of our Organization to show respect for the opinion of the States of Central America and not to thwart the implementation of the Guatemala Agreement.

There can be no doubt that it is precisely the continuance of intervention in the affairs of Nicaragua and the persistence in providing help to the contras which is the major obstacle to a political settlement in Central America. This course can only be described as an attempt to subvert the implementation of the accords reached by the five Presidents in Esquipulas. It is in this context that we should view the intention of the United States Administration to seek further

(Mr. Belonogov, USSR)

multi-million-dollar appropriations to continue financing the armed counter-revolution, for in the final analysis this will lead to the persistence of the dangerous hotbed of tension in the Central American region.

As pointed out in the statement by the Soviet Government on the results of the latest meeting of the Central American Presidents,

"The Soviet Union, by principle an advocate of political methods of settling regional conflicts, welcomes the outcome of the meeting in Guatemala. The Soviet Government expresses its support for the understandings reached, acknowledges the full value of this contribution by the Contadora Group and the Support Group, and hereby announces its determination to respect the decision adopted by the five Presidents. Within the framework of its responsibility for upholding the peace and promoting civilized relations in the world community, it will encourage efforts to put that decision into effect." (A/42/475, p. 2)

It is the view of the Soviet delegation that the interests of ensuring international peace and security requires the early elimination of the hotbed of tension in Central America and the creation of the conditions necessary for Central Americans to determine their own fate, without outside intervention. The United Nations General Assembly once again must bring to bear its great authority in support of the positive processes in the region. Without doubt these objectives will be served also by adopting draft resolution A/42/L.23, which contains a new, vigorous appeal for full compliance with the Judgment of the International Court of Justice as regards military and paramilitary activities in and against Nicaragua. Immediate compliance with the Judgment is of fundamental importance in opening the road to peace for Central America and strengthening the whole range of moral and political principles which are the corner-stone of the international legal order.

Mr. RITTER (Panama) (interpretation from Spanish): The United States Constitution did not, as is sometimes thought today, expressly establish the supremacy of the Supreme Court. It was the development of democratic institutions that defined the power that the Supreme Court has today to exercise judicial review over the acts of Congress and of the Administration. That is natural. Who would have imagined 200 years ago that a group of judges, although they had not been elected by the people but rather had been designated by the President and approved by the Senate, would in some cases have the power to overrule the acts of both the former and the latter? Nevertheless, the development of the principle that the law is superior to all, independent of the extent of power held, created an admirable system which is the pride of the American people and has been copied almost without exception by the young republics of Latin America.

That system was not built - and herein lies its chief merit - on spectacular power confrontations; rather it was built on cases which were apparently insignificant, but which permanently fixed the principles at stake. A citizen named Marbury felt that he had been unjustly deprived of a job and, indeed, had been poorly paid, and he ventured to challenge the powerful Government of the recently elected President Jefferson and his Secretary of State Madison. He won his case. The Judgment of the Court, although the Court did not have the coercive power to enforce it, prevailed over the will of a Government which had the necessary power to disregard it. I will not go into the difficult circumstances surrounding that decision; I will simply point out that, without knowing it, the parties in the case of Marbury v. Madison were laying the corner-stone of the supremacy of the Court.

Although it is true that the precepts of international law are not the same as those of domestic law, the case that is before the General Assembly today has many points of great similarity to the case I have described. We are dealing not with a

(Mr. Ritter, Panama)

great Power challenging another with its strength, but rather with a small nation which, using the arms of the law, is facing a mighty Power. Similarly, we are deciding whether a group of judges elected by sovereign countries may submit those two countries to the rule of law. That is to say, we are either firmly laying the foundation of the supremacy of the International Court of Justice or for ever rejecting its authority.

From a legal standpoint, the case offers no difficulties. The competence of the International Court of Justice is clearly established. Its arguments are irrefutable. The decision is definitive and precise. The problem, as is well known, lies in its implementation. Here again there are fundamental principles at stake, one being the legal equality of States. The judgments of the International Court of Justice must have the same effect and the same coercive power when they affect permanent members of the Security Council as when they concern States without the discriminatory power of the veto.

Who can challenge the competence of the Court when Article 36 of its Statute expressly lays down that

"In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court"?

Who can challenge the legal arguments that led to the Judgment of 27 June 1986? Who can doubt the clarity of the Judgment when that Judgment itself states that it is "definitive and binding in conformity with Articles 59 and 60 of the Statute"?

Leaving aside the effects which the Judgment may have upon the peace process in Central America, what we have before us is the case of a nation which, relying upon its own strength, has decided not to comply with a judgment of the International Court of Justice.

(Mr. Ritter, Panama)

Panama has always supported the strengthening of international organs, and we believe in the effectiveness of the legal instruments that they make available to States. Small countries without the ability to impose their arguments by force have, in international rules, guarantees of their rights and counterweights to redress the disproportionate imbalance in the correlation of forces between them and the great Powers.

The United Nations gives the greatest importance to selecting judges of the Court. The complex mechanism of elections - a process of which was completed, in fact, yesterday - is aimed at guaranteeing that the highest international tribunal will be made up of those who are best qualified, in view of the complex and highly important matters which they have to resolve. If we put so much effort into their election, the least we can do is to comply with what they resolve according to the law.

It is therefore even more paradoxical that today we should be debating non-compliance with a judgment of that Court to which we elected some judges yesterday. And since there are parallels here, as regards both complexity and time, with elections to the United States Supreme Court, which is at present filling a vacancy, we hope that there will also be parallels in terms of readiness to comply with what both Courts may decide.

The United States today not only has an obligation to comply with the Judgment of the International Court of Justice, has a historic opportunity, in the bicentennial year of its Constitution, to show the world that the principles that forged the supremacy of the Supreme Court still apply today and that, just as a powerful United States President who had the power to disregard it voluntarily accepted the judgement of his Court, similarly a great military Power can honourably comply with the decisions of the International Court of Justice.

(Mr. Ritter, Panama)

I will conclude by repeating the words of the Permanent Representative of Mexico, Mr. Mario Moya Palencia, in an erudite and masterful statement a year ago on the Judgment in question and the origin and use of the veto right.

(Mr. Ritter, Panama)

Mr. Moya Palencia said:

"... the international community, regardless of any particular position taken on the substance of the issue that led to the litigation, must support compliance with the Judgment. Failing to do that would undermine the legal foundations of the international order as well as the importance and compulsory nature of the judgements of the International Court of Justice, which would be tantamount to undermining the very foundations of the civilized coexistence of nations". (A/41/PV.53, pp. 77 and 78)

Mr. TREIKI (Libyan Arab Jamahiriya) (interpretation from Arabic): I wish first to express the sincere condolences of the delegation of the Libyan Arab Jamahiriya to the fraternal delegation and the people and Government of Niger on the death of President Kountché. Niger is a neighbour of ours, and a country with which we have strong geographical, historical and spiritual ties. This makes us share its loss.

Once again the General Assembly is considering the Judgment of 27 June 1986 by the International Court of Justice concerning military and paramilitary activities against Nicaragua. Although a whole year has passed since the General Assembly adopted its resolution 41/31, calling for full and immediate compliance with the Judgment of the International Court of Justice, the United States Government continues and even intensifies its military and paramilitary activities. It continues to be the paymaster of the bands of mercenaries whom it supports in their acts of torture, sabotage and other forms of terrorism against civilian and economic targets in Nicaragua, in naked defiance of the international community and with contempt for the principles and the letter and spirit of the United Nations Charter.

Such practices violate the most basic rules and principles of international

(Mr. Treiki, Libyan
Arab Jamahiriya)

law and the Charter. They are part and parcel of the policy of State terrorism against the smaller countries. We in the Mediterranean region are not unfamiliar with such practices. The people of Lebanon have been their victims. Every day the people of Palestine suffer murder and destruction as a result of this policy.

We in Libya have been the victims of a direct act of aggression, by sea and by air, and we are still subjected to all kinds of pressure, conspiracies and disinformation campaigns. Through the United Nations and through the Secretary-General personally, we have requested the United States to agree to have recourse to the International Court of Justice, where its claims could be examined and its allegation against my country scrutinized. Two years have now passed without any positive answer from the United States.

We, more than anyone else, are aware of the nefarious nature of the illegal war being waged against Nicaragua. We therefore appeal to the international community to urge the United States to comply immediately with the Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities against Nicaragua, as it is bound to do as a Member of the United Nations and in conformity with its principles. To do this is to uphold the rule of law and the moral values that we all seek to observe in order to maintain peace and security, not only in Nicaragua or Central America, but in the world.

When a judgement of the International Court of Justice is contravened or flouted by any party simply because it is the stronger and has money and power, the international situation is sure to suffer and the confidence of smaller nations in international law and the United Nations is undermined.

(Mr. Treiki, Libyan
Arab Jamahiriya)

We strongly support the efforts of the Contadora Group and the Guatemala agreements, which are designed to secure peace for Central America. Furthermore, we call on everyone to accept that. We pay a tribute to Nicaragua for its constant readiness to engage in dialogue in the quest for a solution. Nicaragua's peaceful policy has our blessing and support.

Mr. ORAMAS OLIVA (Cuba) (interpretation from Spanish): On 9 April 1984 the Ambassador of Nicaragua to The Hague filed with the International Court of Justice an accusation against the United States of America concerning its responsibility for military and paramilitary activities in and against Nicaragua. This action by Nicaragua was the object of lengthy and scrupulous consideration by the International Court of Justice, which revealed that the United States had, at first covertly and then overtly, been assisting the so-called contras in Nicaragua. Finally, it was determined that the mining of Nicaraguan ports constituted an act of war.

We cannot possibly describe the whole litany of grim and vindictive events which over these past few years have marked the activities of the United States Administration against Sandinista Nicaragua, in violation of the norms of international law - as was indeed stated by the International Court of Justice in its Judgment.

It is not true that the United States is protecting its vital or essential security interests by acting in this way. The peoples of America have first-hand experience of more than 100 years of intervention of all kinds in their internal affairs - and all those acts of intervention, without exception, have come from the great neighbour to the North. There is no legal precept or ethical principle in the name of which the United States has had to spend millions of dollars to finance

(Mr. Oramas Oliva, Cuba)

a war against the people of Nicaragua that has taken a toll of thousands of human lives and caused indescribable suffering to that people as well as material damage^e that has been estimated at millions of dollars. The destabilization of Central America that has resulted from this interference is a dangerous source of tension: There has been no international body, beginning with the General Assembly and including the Movement of Non-Aligned Countries, that has failed to express, in one^{ne} form or another, the international community's ardent wish for an end to this whole^{le} policy and for the establishment of peace in Central America.*

*Mr. Masri (Syrian Arab Republic), Vice-President, took the Chair.

(Mr. Oramas Oliva, Cuba)

The international community was profoundly relieved at the historic accomplishment of the Central American Presidents when they signed in Guatemala the Esquipulas II Agreement, which constituted the point of departure for a new process to lead to the opening up of prospects for peace in the subregion, and we all noted with dismay, and even indignation, the fact that certain voices have been raised in Washington in continuing condemnation of Nicaragua and making the most absurd demands on that country, with the ultimate purpose of blaming it for the fact that the negotiating process has been a failure, when it is Nicaragua which has consistently been taking constructive steps in that direction.

We believe that the time has come for wisdom to prevail and for us to heed the calls from all quarters for a supreme effort for the success of the Esquipulas II Agreement, and for all parties to unite in a single whole to strive for the halting of bloodshed in Central America.

A decisive contribution on the part of the United States in the march towards peace would be for it to give a firm decision not to take the slightest step to provide assistance of any kind to the contras in Nicaragua, to cease all types of hostility towards that country and to take concrete action to prevent any type of activity originating in United States territory which could interfere with the conclusion of a peace settlement.

On behalf of the peoples of our America, we call on the United States today, when the sun of peace is beginning to cast its bright rays on Central America, to make a contribution to this noble cause and to comply with the Judgment of the International Court handed down on 27 June 1986.

Reason and justice will triumph. When I utter these words, I am reminded of one of the great men of America, José Martí:

(Mr. Oramas Oliva, Cuba)

"Since we possess reason, there can exist nothing contrary to it. If there were, the existence of reason would make no sense; it would have no object. Therefore, there is nothing which exists against reason. Anything which is destroyed by reason cannot be supported by truth."

My delegation wishes to express its wholehearted support for draft resolution A/42/L.23, introduced by the representative of Nicaragua.

Mr. MOUSHOUTAS (Cyprus): At the outset, I should like to express the condolences of the Government and people of Cyprus at the passing away of General Seyni Kountché, President of the Niger, a friendly country and a member of the Non-Aligned Movement.

The item under consideration was brought before the General Assembly because the Security Council, having considered Nicaragua's request for enforcement of the Judgment of the International Court of Justice of 27 June 1986, could not take a decision on a draft resolution due to a veto cast by the other party to the dispute.

We are aware of the Charter's provisions which confer responsibility for consideration of judgments of the International Court of Justice on the Security Council, and of Article 93, paragraph 1 of which states that:

"All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice."

We know also the political implications that the point at issue entails, that is, absolute respect for the principles of non-intervention and non-interference in the affairs of other States and the solemn obligation of every Member State to respect the sovereignty, independence and territorial integrity of other States. The Court's decision pronounced unequivocally that intervention in the affairs of other States is prohibited. Every State has an inalienable right to decide on its own political, economic and social policies.

(Mr. Moushoutas, Cyprus)

The draft resolution presented evolves around the central role which the International Court of Justice should play in the peaceful settlement of disputes. It promotes the International Court of Justice as the highest judicial body of the United Nations, thus strengthening legal order.

We favour more frequent recourse to the Court, because we believe that the International Court in The Hague can play an invaluable role in resolving international disputes and in clarifying the rights and obligations of States.

In the issue under consideration, the highest Court of the world has declared what is right and pointed to the responsibilities of the parties.

The non-aligned summit meeting, held in Harare in September 1986, urged compliance with the decision of the International Court of Justice of 27 July 1986. At a time when there is evidence of a trend for the strengthening of the United Nations, and, as a consequence of the prestige of all its organs, including the International Court of Justice, it behooves all of us to reflect twice, very seriously, on that Judgment, which affects not only Nicaragua, but all of us. The International Court of Justice in The Hague gave its Judgment on the legal aspects of the issue. We regret that the political aspect of the problem, which forms the main cause of the grave situation prevailing in Central America, has not as yet found a just and peaceful solution.

We believe that bilateral or international problems must be solved peacefully by negotiation and not by force of arms. Moreover, respect for the sovereignty, independence, territorial integrity and unity of a country by all States, coupled with the principle of non-interference in the internal affairs of others, must be the foundation of international relations.

(Mr. Moushoutas, Cyprus)

"Central America",

said my President in his address to the General Assembly,

"is confronted with a serious political, social and economic crisis, which should be resolved in a peaceful manner so as to avoid wider conflicts which might threaten peace and security in the region. We follow with grave concern the events in Nicaragua and other countries in Central America and express the sincere hope that efforts within and outside the United Nations, including those of the Contadora Group, will succeed. What is of paramount importance is that the right of all States in the region to independence, sovereignty and territorial integrity be fully respected, as well as the sovereign right of the peoples of the region to choose freely their own political, economic and social systems without any foreign interference." (A/38/PV.15, p. 21)

(Mr. Moushoutas, Cyprus)

Cyprus, as a non-aligned country sharing common aspirations with many Latin American countries, unreservedly supports the peace efforts of the Contadora and Support Group and pays tribute to the Governments of Colombia, Mexico, Panama, Venezuela, Argentina, Brazil, Peru and Uruguay, for the efforts made by those countries to find a just and lasting solution to the problem of Central America. The Group's actions are based on the lofty principles of the Charter of the United Nations and international law concerning friendly relations among States and peaceful settlement of disputes. We endorse the Declaration recently adopted at the summit Conference of the non-aligned countries, held in Harare in September 1986.

Cyprus supports also the plan of President Arias, signed by the five Central American Presidents, which we consider to be the best framework for peace and stability in the region.

We reiterate our opposition to any kind of threat or use of force, pressure, interference and intervention in the internal affairs of the Central American States and, together with other non-aligned countries, we shall continue to exert all possible efforts for the success of the Contadora peace initiatives and for the establishment of conditions of peace and stability in the region.

We believe that peace must be sought, maintained and strengthened through dialogue, notwithstanding ideological or other differences which may exist between States.

We shall support the draft resolution under consideration.

Mr. ALI (Democratic Yemen) (interpretation from Arabic): Discussion of the item pertaining to the Judgment of the International Court of Justice of 7 June 1986 in the case of Military and Paramilitary Activities in and against Nicaragua, makes it easier for those of us who follow the situation to understand,

(Mr. Ali, Democratic Yemen)

from its very title, the aim of the item, especially that it refers to the need for "immediate compliance with the Judgment". We believe this is quite clear. The developments which have led to the inclusion of the item in the agenda may be summarized in the following paragraphs.

Firstly, Nicaragua, a State Member of the United Nations, brought a suit into the International Court of Justice against the United States of America, which had violated certain rules of international law by arming and training counter-revolutionary elements, mining the ports of Nicaragua and perpetrating other acts of aggression. Nicaragua's plaint was based on the fact that the United States contravened the provisions of Chapter VI of the Charter which call for the peaceful resolution of disputes while the Government of Nicaragua tried to settle those disputes peaceably.

Secondly, in the light of the evidence submitted, the International Court of Justice passed judgment that the United States of America has indeed violated the rules of international law, which forbid interference in the internal affairs of other States, the use or threat of force against them and the violation of their national sovereignty.

Thirdly, the Judgment of the International Court of Justice stands dormant to this date, because the party against whom it was passed, namely the United States of America, continues to ignore it and refuses outright to implement it. Rather than implement the judgment, the United States continues to escalate its attempts to overthrow the ruling régime in power in Nicaragua and intensify its intervention in the internal affairs of that country. This, of course does not further the cause of peace and stability in Central America, but tends to increase tensions and obstruct the peace plan agreed upon by the Presidents of the countries of Central America. The plan, which was declared on 7 August 1987, has attracted the support of the international community.

(Mr. Ali, Democratic Yemen)

Fourthly, in the light of these developments, the international community's role is to find ways and means whereby the United States may be induced to comply with the Judgment of the International Court of Justice. This would help restore stability and security in Central America and pave the way for its peoples to live in peace.

Far from taking such a course, the United States persists in its intransigence and continues to pursue policies which are contrary to the Judgment of the International Court of Justice. In so doing, the United States not only violates the rules of international law and principles of the Charter, but also heightens the risks which beset Central America.

In the light of this situation, my country joins with the international community, which is virtually unanimous in its view that the United States should comply immediately with the Judgment of the International Court of Justice.

Democratic Yemen also reiterates its condemnation of any act of aggression against Nicaragua. We stand by Nicaragua's people and Government in their determination to freely exercise their political, economic and social options and face up to the schemes to violate Nicaragua's sovereignty and territorial integrity.

Mr. NOWORYTA (Poland): The Polish delegation, which chairs the Eastern European Group this month, wishes to take the following position on the item under discussion.

The Judgment of the International Court of Justice of 27 June 1986 in the case of "Military and Paramilitary Activities in and against Nicaragua" is of paramount importance. It reaffirms the main principles of international law and inter-State relations, such as the sovereign equality of States, the duty to refrain from the threat or use of force against the territorial integrity or political independence of any State, the duty not to intervene in matters within the domestic jurisdiction of States and the obligation to settle international disputes by peaceful means.

(Mr. Noworyta, Poland)

The call for full and immediate compliance with this Judgment is justified in the light of international law, inter alia, on the basis of Article 94 of the Charter and article 36, paragraph 6 of the Statute of the International Court of Justice.

(Mr. Noworyta, Poland)

The strict implementation of the Judgment is urgently needed from the point of view of international justice and the necessity to enhance the rule of law rather than force in international relations. The general respect for international law and, in particular, for the basic principles of the United Nations Charter, is an essential premise to ensure peace and security all over the world.

I should also mention that the Judgment contains unequivocal provisions specifically related to the case in question, including the qualification of encouraging, supporting and aiding paramilitary activities in and against Nicaragua as a breach of customary international law, as well as the pronouncement of a duty to cease and refrain from all such acts as may constitute violation of legal obligations. Those binding guidelines should be strictly followed in the political reality as the foremost condition for achieving lasting peace in the region.

In that regard, I wish to stress the great significance of the activities undertaken by the five Central American States since the signing of the peace Agreement at Guatemala on 7 August 1987, which unequivocally sets forth that termination of aid to irregular forces is a vital element in the attainment of stable and lasting peace in the region.

We are confident that the continuation of the authentic regional initiatives, the peace efforts of the Contadora and Support Groups, will lead to the peaceful resolution of the Central American crisis. In particular, all necessary measures should be taken to ensure that all the commitments contained in the peace Agreement should be fulfilled.

Against this background of the evolving situation in Central America, the demand for full and immediate compliance with the Judgment of the International Court of Justice acquires still greater importance. The decision of the political, juridical organ of the United Nations should be observed, not only for self-evident

(Mr. Noworyta, Poland)

legal reasons, but also to eliminate one of the major focal points of tension, representing a threat to international peace and security, and to promote a genuine peaceful settlement of the Central American conflict.

For this reason, I wish to express our support for the draft resolution on this subject.

Mr. ADOUKI (Congo) (interpretation from French): I should like to convey my condolences to the delegation of the Niger on the sad loss sustained by that country on the passing of President Seyni Kountché.

My delegation would like to express its views on the situation in Central America under item 30 of the agenda concerning the Judgment of the International Court of Justice of 27 June 1986.

Woe to him who is alone! That fearful motto, which we hear from time to time, is probably borrowed from ancient philosophers. In many circumstances, particularly political circumstances, how comforting it is for peoples and countries facing terrible ordeals to find themselves together with a common vision with their minds focused on the same thought: victory - victory over a combination of dark and alien and hostile forces, hostile to the common interests and destinies of people who are athirst for peace and security; victory over an evil genius, scarcely concealed, bent on confusing the simplest situations and obscuring the clearest facts and common sense.

The peoples of Latin America are reaching out for peace, development and justice without outside interference, without sacrificing the principles of self-determination and non-intervention. The motto, which is so often invoked, happens fortunately to vindicate the work of the Contadora and Support Groups, whose efforts and initiatives for peace in Central America are welcomed by the international community.

(Mr. Adouki, Congo)

The importance and respect for international law and the International Court of Justice as one of the major judicial instruments of the United Nations, is one of the obligations which are always incumbent on each of the parties to the Statute of the Court. Now, the Secretary-General, in his report A/42/712 of 4 November 1987, notes that, with regard to resolution 41/31, the situation has not changed. That is why, this morning, the delegate of Nicaragua reminded us so pertinently of the universal scope, juridical and political, of the Judgment of the International Court of Justice of 22 June 1986, in the case of military and paramilitary activities in Nicaragua. Once again, the international community supports this Judgment. Its implementation, therefore, cannot be disregarded without defying the fundamental principles of the international legal order, to which it was freely subscribed.

The course of events in Nicaragua has taken quite an exceptional turn and has made that country the focus of obsessive attention and has caused the situation to deteriorate in Central America to the detriment of its sovereignty, its security and its right to self-determination. What an incredible campaign of hostile, ideological propaganda against that country, a campaign conducted to the noisy accompaniment of intrigue and external interference in which the press delights!

But what sacrifices have been imposed on the people of Nicaragua. Democratic life has been paralysed there for such a long time and flagrant outside intervention has made even more violent divisions among the citizens of Nicaragua.

(Mr. Adouki, Congo)

A new ray of hope and a prospect of peace has just come into being for Central America in accordance with the proclaimed will of the peoples of the region, which reject the recourse to the threat or the use of force in international relations. My country, like others, supports the Guatemala Agreement, signed by the five Heads of State of the region. International opinion was encouraged and welcomed within this context the appeal for peace by President Arias of Costa Rica.

It is essential, therefore, that the peace process be strengthened, supported and implemented in terms of the Judgment of the International Court of Justice with regard to military and paramilitary activities in Nicaragua, that there should be a strengthening of the fundamental juridical principles of the international legal order, and that there should also be a strengthening of the peace process in Central America.

The meeting rose at 12.30 p.m.