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PROVISIONAL VERBATIM RECORD OF THE THIRTY-SIXTH MEETING

**Held at Headquarters, New York,
on Tuesday, 25 October 1988, at 3 p.m.**

President:

Mr. CAUTO

(Argentina)

- Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua: need for immediate compliance [33]
 - (a) Report of the Secretary-General
 - (b) Draft resolution
- Co-operation between the United Nations and the Organization of African Unity [26]:
 - (a) Report of the Secretary-General
 - (b) Draft resolution
- Expression of sympathy to the Governments and peoples of Central America
- Organization of work

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 33

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/43/728)
- (b) DRAFT RESOLUTION (A/43/L.14)

The PRESIDENT (interpretation from Spanish): I should like to remind representatives that, in accordance with the decision taken yesterday morning, the list of speakers in the debate on this item will be closed today at 4 p.m. I therefore request those representatives wishing to participate in the debate to put their names on the list as soon as possible.

I call on the representative of Nicaragua, who wishes to introduce the draft resolution (A/43/L.14) on this item.

Mr. SERRANO CALDERA (Nicaragua) (interpretation from Spanish): Sir, the Foreign Minister of the Republic of Nicaragua had the opportunity to congratulate you on your election as President of the General Assembly at the forty-third session, and I should like, on this occasion, to express my personal satisfaction at seeing you presiding at this session. I reiterate that my delegation has confidence in you as President, particularly as we are taking up agenda item 33, "Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua: need for immediate compliance".

The General Assembly is preparing to discuss this matter for the third time, a matter whose importance has been emphasized on many occasions. The reasons for this are quite clear. Notwithstanding the failure of its policy of immoral and illegal warfare against the legitimate Government of Nicaragua, the United States has persisted in its disregard of the historic Judgment of the International Court of Justice of 27 June 1986.

In his brief report on this matter the Secretary-General acknowledges that "there have been no new developments in the situation since the adoption of resolution 42/18."

He adds:

"the International Court of Justice, failing agreement between the parties and at the request of Nicaragua, is in the process of deciding, in accordance with its Judgment of 27 June 1986 on the merits of the case, the form and amount of the reparation owed by the United States of America to Nicaragua for 'all injury caused to Nicaragua by certain breaches of obligations under international law committed by the United States'."

(Mr. Serrano Caldera,
Nicaragua)

Lastly, the Secretary-General informs the Assembly that

"The United States has not participated in the proceedings to date, remaining of the view that the Court is without jurisdiction to entertain the dispute."

(A/43/728, para. 2)

Quite clearly, the United States has persisted in its policy of disregarding the Judgment of the Court and its authority in this case, in violation of the legal commitments entered into by that country. A glance at the events which have taken place since the adoption of resolution 42/18 bears this out.

During 1988 the United States has approved four separate allocations of millions of dollars for the continuance of its illegal war against Nicaragua. The fact that these millions of dollars were approved under the euphemism of "non-lethal" or "humanitarian" aid does not detract from the seriousness of the violation of the principles of international law that it implies, principles which the Court at The Hague has attempted to protect by its Judgment.

The Court made no distinction in this case. On the contrary, it employed sufficiently clear, broad language to prevent the United States from resorting to subterfuges or euphemisms in order to continue its policy of intervention and interference in the internal affairs of Nicaragua. The Court stated:

"the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise" - and I would emphasize this - "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 State." (S/18221, annex, para. 292, p. 137)

(Mr. Serrano Caldera,
Nicaragua)

The United States Congress approved \$8.1 million for the period from 22 December 1987 to 29 February this year. Subsequently it approved \$17.7 million for the period from 1 April to 30 September. More recently, it approved \$7.1 million for the period from 1 October to 21 December. All this is regarded as "non-lethal" assistance to the counter-revolutionary forces campaigning in Honduran territory and attempting to overthrow the legitimate Government of Nicaragua.

On 30 September the United States Congress approved the so-called Defense Department appropriations Bill AF-89, which was ratified by President Reagan and became law on 1 October this year. That Bill provides for \$32.1 million for so-called humanitarian assistance, which is already being disbursed, and also \$41.5 million for military assistance, transport and resources that may be disbursed if certain conditions are met, determination of which is to be made by the Congress and the President of the United States. The so-called appropriations for external operations Bill AF-89, also ratified on 1 October this year, provides for disbursement of \$2 million for internal Nicaraguan opposition.

(Mr. Serrano Caldera, Nicaragua)

It is important to emphasize the illegal nature of these activities since, even though the policy of military support for the contras has been overthrown, the United States has not ceased to regard Central America as its own backyard and to continue to assume the right to interfere in our domestic affairs. This interventionist policy, which has been categorically rejected by the world's highest court of justice, has not ended; rather, the United States is employing ever more sophisticated, covert methods.

It is therefore appropriate to repeat some of the findings of the Court on this important matter. It said:

"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." (ibid., para. 263)

Furthermore, in May this year, the United States Government renewed the trade embargo against Nicaragua, thus once again violating the Judgement of the Court, which stated that:

"the United States ... by declaring a general embargo on trade with Nicaragua ... has acted in breach of its obligations under Article XIX of the Treaty of Friendship, Commerce and Navigation between the Parties signed at Managua on 21 January 1956". (ibid., para. 292, p. 140)

(Mr. Serrano Caldera, Nicaragua)

As explained by the International Court in its report to the Assembly, in its Judgment on the substance of the matter it directed the United States to make reparations to Nicaragua "for all injury caused to Nicaragua by the breaches of obligations under customary international law ..." (ibid.) and decided that "the form and amount of such reparation, failing agreement between the Parties, will be settled by the Court ..." (ibid., p. 141).

The United States has refused not only to begin talks with Nicaragua to reach agreement on this important aspect of the Judgment, but also to appear before the Court and take part in the proceedings, arguing yet again that the Court lacks jurisdiction to consider the dispute.

Since this argument seems to have been developed principally to justify the unacceptable conduct of the United States, it seems useful to recall that the Court, in its decision of 26 November 1984, settled this matter by declaring itself competent.

First, nobody can misinterpret the clarity of paragraph 6 of Article 36 of the Statute of the International Court of Justice, to which the United States is a signatory, which reads:

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

This means that none of the parties and no other organ is entitled to determine the jurisdiction of the Court; it is for the Court itself to do so.

Secondly, the Court decided on that date that it did indeed have jurisdiction on the basis of the declaration made by the United States, and deposited on 26 August 1946, accepting jurisdiction pursuant to the optional clause of paragraph 2 of Article 36 of the Statute and on the basis of article XXIV of the Treaty of Friendship, Commerce and Navigation, signed by both parties in Managua on 21 January 1956.

(Mr. Serrano Caldera, Nicaragua)

There is thus no justification for the reasons given by the United States for its continued disregard and disobedience of the International Court of Justice.

My delegation has presented for consideration by the General Assembly draft resolution A/43/L.14, the thrust of which is similar to that of resolution 42/18, which was adopted in November last year by a sizeable majority of Members. The reiteration of the urgent call by the Assembly for full and immediate compliance with the Judgment of the Court of 27 June 1986 is important, not merely in the light of new decisions to be taken by the Court with respect to the legal implications of this historic decision, but also in the light of the situation in Central America and the prospects for peace which new circumstances are creating for the region as a whole.

Notwithstanding the difficulties encountered in the process which began on 7 August 1987 in Esquipulas, peace is still within reach. The stumbling-blocks which are keeping this process stalemated have been clearly identified.

(Mr. Serrano Caldera,
Nicaragua)

The Secretary-General, in his report on the situation in Central America, sets this out quite clearly when he states that no progress has yet been made in fulfilling the obligations on the non-use of territory for aggression against other States or on the termination of aid for irregular forces or insurrectionist movements. The continuing breach of these obligations has resulted in stalling the process for the establishment of the international machinery to verify these commitments which is indispensable to the carrying out of the Esquipulas agreements.

Those agreements emphasized a point made by the Court in its historic Judgment of 27 June 1986. One of the most important provisions contained in the "Procedure for the establishment of a firm and lasting peace in Central America" reads:

"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)

Logically speaking, therefore, the Central American peace process cannot bear the desired fruit if there is disregard for the principles which the International Court of Justice has sought to defend in its historic Judgment. Now, the Judgment remains valid and is therefore of primary importance in the solution to a conflict that has gone on for far too long now and has cost the peoples of Central America too much in suffering, destruction and loss of human life.

The special political circumstances in the United States of America offer a unique opportunity to correct the errors of the past. If it complies with the law, the United States will not be suffering a defeat; rather, it will be worthy of

(Mr. Serrano Caldera,
Nicaragua)

universal gratitude and appreciation, particularly from the peoples of Central America, who are yearning for reconciliation and peace.

In paragraph 16 - the last paragraph - of its Judgment, the Court

"Recalls to both parties their obligation to seek a solution to their disputes by peaceful means in accordance with international law". (S/18221, annex, p. 141)

Nicaragua has been and continues to be open to dialogue with the United States for the purpose of achieving peace.

In the service of this peace which we seek with enthusiasm, faith and hope, we call for the adoption of the draft resolution on this item that we have submitted to the General Assembly for its consideration.

Mr. OKUN (United States of America): I regret that once again the valuable time of the General Assembly is being taken up by consideration of yet another Nicaraguan draft resolution calling for implementation of the International Court of Justice decision against the United States. This is the third time that the General Assembly has been asked to consider this ill-conceived and outdated draft resolution.

The United States will vote against the draft resolution for three reasons.

First, while the United States fully respects and supports the International Court of Justice, the underlying concept of consent of the parties to jurisdiction must be adhered to. The International Court of Justice statute does not require any State to accept jurisdiction. As all Member States are aware, the United States has never accepted the jurisdiction of the International Court of Justice in this case. The United States views the International Court of Justice's claim of jurisdiction and competence in the Nicaragua case as without foundation in law or fact.

(Mr. Okun, United States)

Secondly, the International Court of Justice case presents a one-sided picture that ignores the Nicaraguan Government's conflict with its own people and neighbours, a conflict that has grown from its policies of internal repression and of destabilizing the other countries of the region.

Finally, repeated consideration of this item by the General Assembly makes no contribution to peace in Central America. The United States vote against this draft resolution is not a vote against the International Court of Justice: it is a vote against a worn-out issue that is translated by the Government of Nicaragua into support for a repressive Sandinista Government that has failed to live up to its commitments under the Esquipulas II peace plan, of which it, as well as its neighbours, is a signatory. It is particularly significant that none of Nicaragua's closest neighbours have supported this draft resolution in the past.

As in the past, Sandinista actions continue to speak louder than words. Repression by the Government of Nicaragua has grown over the last year: the Sandinistas have failed to fulfil their commitments to the Esquipulas accord; they have gaoled opposition political leaders; they continue to harass and intermittently close the only independent newspaper, "La Prensa"; they have silenced "Radio Catolica" news broadcasting and have suspended other non-Government-controlled radio news programmes on numerous occasions; they have attacked and gaoled labour leaders - indeed, the International Labour Organization is looking into the sorry state of labour affairs in Nicaragua; they have detained several hundred persons - without benefit of any due process - whom they allegedly suspect of ties with the resistance; they have not permitted the distribution of funds to aid children who are war victims.

A political solution that takes into account the concerns of Nicaragua's neighbours is necessary. It is only by dealing with Nicaraguan repression and

(Mr. Okun, United States)

failure to comply with its commitments to democratization and Nicaraguan aggression against its neighbours that a solution that will bring peace to Central America can be found.

The time has come for the General Assembly to stop supporting this outdated and counterproductive draft resolution. I urge other countries to vote against it or withhold support and to work to remove this item once and for all from the agenda of the General Assembly.

Mr. ORAMAS OLIVA (Cuba) (interpretation from Spanish): My Government wishes to express its most heartfelt condolences and feelings of friendship and solidarity to the Government and people of Nicaragua at the loss of life and the material damage caused by the hurricane which very recently lashed that fraternal country. Cuba feels the international community must come to the help of the Nicaraguan people.

We are meeting at this session in an atmosphere marked by lower levels of anxiety than in previous years. The international scene is less gloomy and more hopeful for those countries which, like my own, cherish peace and work hard to achieve it. Faced with the choice between peace and the disappearance of our planet, man seems determined to choose the most reasonable option for all - that is, peace.

The option of peace necessarily involves making fuller and better use of international law. In a world of tension, aggression and the cold war, the law of the strong can easily be imposed. Therefore if the international community moves towards peaceful coexistence it must make sure that that coexistence is firmly rooted in the principles and norms which govern contemporary international law, including non-use of force in international relations and its necessary corollary, the peaceful settlement of international disputes.

Since the foundation of the United Nations in 1945 the Charter has encompassed, among the various means for the settlement of disputes, the use of the International Court of Justice, with its status of principal judicial organ of the United Nations system. As provided for in the Statute of the Court, its binding jurisdiction applies only to those who have explicitly accepted it through a declaration to that effect. In the case of the Governments of Nicaragua and the United States, both had accepted the mandatory jurisdiction of the Court long before this dispute was brought before the Court. This was a dispute over which

(Mr. Oramas Oliva, Cuba)

the Court had jurisdiction, as provided for in Article 36, paragraph 6, of its Statute.

The people of Nicaragua had been the victims of military and paramilitary activities in which the United States had intervened, by providing either finance or the use of its territory for the preparation of such activities; it even went so far as to mine the ports of that small country. The actions carried out against Nicaragua which caused it to resort to the International Court of Justice violated principles enshrined in the United Nations Charter, such as non-interference and non-intervention in the internal affairs of other States. Those actions also violated, inter alia, the Definition of Aggression adopted by the General Assembly in the mid-1970s.

Accordingly, Nicaragua resorted to the Court, seeking its judgment. It placed itself in the hands of international law, using one of the mechanisms provided by the Charter. It acted consistently with its status as a reliable, trustworthy member of the community of nations.

But the Government of the United States decided not to accept the mandatory jurisdiction, although it was obliged to do so not only because of the declaration to which I have referred but also because for many years it had proclaimed itself to be one of the principal advocates of acceptance of the Court's mandatory jurisdiction. Then it sought to challenge the Court's competence and later, when on 27 June 1986 the Court finally handed down a Judgment unfavourable to it, it proceeded to disregard that Judgment and has failed to fulfil its terms even two years later.

That attitude of the United States Government runs counter to Article 94 of the Charter, which provides for the obligation of each Member of the United Nations to comply with the decision of the International Court of Justice in any case to which it is a party.

(Mr. Oramas Oliva, Cuba)

What is the point of holding lengthy, costly debates, year after year, on the way to resolve the difficult problems afflicting mankind if we are not prepared to accept solutions acceptable to all when they pose national problems for a particular country? Nicaragua has suffered brutal aggression, its sons have been massacred, its economy has been battered by war and has steadily declined as a result of foreign aggression. Even so, Nicaragua has done nothing more than to resort to the mechanisms available to it to secure respect for its right to decide its own destiny, its right to live in peace. It wants nothing but the fulfilment of a Judgment which meant recognition of its status as a country the victim of aggression and the establishment of the rules of the game for the aggressor.

The United States Government is committed by that Judgment in the case of Nicaragua. It is committed to the Court by virtue of its own declaration, which it has vainly sought to disown.

If it is hoped that the possible solutions now coming into sight under the impetus of international law will become a reality in the near future, the Government of the United States must manifest the political will to respect the norms which derive from it, as our Organization is entitled to demand. If the international community is to maintain its hope for a better future for the United Nations, the United States Government must fulfil the terms of this Judgment. There is no other option.

Mr. NINO DIEZ (Colombia) (interpretation from Spanish): Allow me to begin by reiterating the solidarity of my Government and delegation with the Government and people of Nicaragua on the occasion of the tragic suffering caused by the recent hurricane. We trust that effective international co-operation will help to overcome the serious consequences of that act of nature.

(Mr. Niño Diez, Colombia)

During the forty-second session of the General Assembly a resolution was adopted which urgently called for

"full and immediate compliance with the Judgment of the International Court of Justice of 27 June 1986 in the case of 'Military and Paramilitary Activities in and against Nicaragua' in conformity with the relevant provisions of the Charter of the United Nations". (resolution 42/18, para. 1)

(Mr. Niffo Diez, Colombia)

On that occasion our country stated that one of the most important matters the international community had to bear in mind was not merely the adoption of norms, regulations or procedures but, rather, compliance with them by the very States that had inspired or recognized them. That statement contains one of the underlying pillars of the civilized world - Pacta Sunt Servanda, and failure to respect it would give rise to countless situations endangering world or regional coexistence, depending on the particular situation.

Our country has steadfastly adhered to the norms of international law, and on this occasion we reaffirm what was endorsed at the suggestion of Colombia in 1945 - when the Charter was being drafted - that is, our conviction that the achievement of the lofty purposes enshrined in Article 1 of the Charter, the maintenance of international peace and security, requires that the Members of the Organization shall fulfil in good faith the obligations assumed by them, in keeping with Article 2, paragraph 2, of the Charter. The following paragraph states 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."

The Judgment of the International Court of Justice speaks to this lofty purpose, among other things.

The theme of the current session of the Assembly has been to emphasize the need for respect for international law and the strengthening of the International Court of Justice - all of which reflects the lessening of world tensions and the brightening prospects for development, equality and justice, as has been demonstrated at previous plenary sessions and in the legal Committee's deliberations. As our delegation stated in that body - the Sixth Committee - we subscribe to this trend, and we trust that there will soon be wider recognition of the binding jurisdiction of the International Court of Justice, both by the

(Mr. Niño Diez, Colombia)

permanent members of the Security Council and by those States which do not yet accord such recognition. That is a practical way of strengthening that body.

We are now approaching the end of the twentieth century, a century which has been characterized by wars, scourges, disease and significant scientific breakthroughs that have not always been used for peaceful purposes, and with institutions borne out of experience and pain. However, there is also a ray of hope in the international arena which compels us to continue decisively along the path of understanding, so that in the next century our children and future generations can feel the pride and the sense of responsibility needed to preserve their faith in mankind and so that we are not regarded in the future as a society which failed to meet its historic destiny and to take action in time.

The Statute of the International Court of Justice establishes that its judgments are binding, definitive and unappealable by the parties in dispute. These characteristics taken together as the depository of the world's juridical conscience serve to buttress the Court's moral strength. That same authority has also conferred on the Court the capacity to determine its own jurisdiction over a conflict. Hence failure to comply with a judgment of the Court, whatever it may be, not merely entails a failure to uphold the law but also encourages the belief that the institution handing down a judgment lacks the authority to do so. In either case, the result is extremely disturbing for the international community.

It is precisely such situations that resolution 42/18 sought to avoid, since it is not for the Assembly to make the law but to support it. The draft resolution now before us reiterates the urgent appeal for compliance with the Judgment of the International Court of Justice, and my delegation supports it, given all of the foregoing reasons.

Mr. ALI (Democratic Yemen) (interpretation from Arabic): On behalf of the Government and the people of Democratic Yemen, allow me to express our sympathy to the Government and the people of Nicaragua on the losses in lives and property they have suffered as a result of the recent hurricanes that have beset Nicaragua.

The discussion of this item, entitled "Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua", enables the interested observer to understand the purpose of the draft resolution, since the title of the item includes the following phrase: "need for immediate compliance".

We consider that this matter is quite clear. The events in connection with the item can be summed up as follows:

First, Nicaragua, a Member of the United Nations, filed a complaint to the International Court of Justice against the United States of America on its violation of the rules of international law through the arming and training of elements of the counter-revolution and the mining of ports and harbours of Nicaragua, as well as other hostile and aggressive acts. Nicaragua's request was in compliance with Chapter VI of the Charter, on the pacific settlement of disputes, and in keeping with the efforts of its Government to resolve these disputes peacefully.

Secondly, in the light of the facts, and the evidence presented in this case, the International Court of Justice issued a Judgment to the effect that the United States of America had violated its obligations under international law in regard to non-interference in the internal affairs of other States, non-use of force and the inviolability of territorial integrity.

(Mr. Ali, Democratic Yemen)

Thirdly, the Judgment of the International Court of Justice remains unimplemented because the party concerned - the United States of America - continues in its negative attitude towards the Court, and refuses to comply immediately with its decision.

(Mr. Ali, Democratic Yemen)

Fourthly, in the light of these developments, the role of the international community is to find ways and means whereby the United States would comply with the judgment of the International Court of Justice. This would help establish security and stability in Central America and bring about circumstances in which its peoples could live in peace. But if the United States maintains its intransigent position and policies in contravention of the judgment of the International Court of Justice, it will thus not only violate international law and the purposes and principles of the Charter, but will also increase the dangers besetting Central America.

In the light of the facts surrounding the judgment of the International Court of Justice, Democratic Yemen joins in the almost unanimous position of the international community regarding the need for the United States of America immediately to comply with the judgment. Democratic Yemen also affirms its condemnation of any aggressive acts against Nicaragua; it supports the people and Government of Nicaragua as they make their independent political, economic and social choices and as they confront designs to infringe upon Nicaragua's security and sovereignty.

Mr. OUDOVENKO (Ukrainian Soviet Socialist Republic) (interpretation from Russian): As Chairman of the Group of Eastern European States for this month, I wish first to express our sincere condolences to the people and Government of Nicaragua in connection with the natural disaster which has just struck that country and caused great loss of life and destruction. We are firmly convinced that the valiant people of Nicaragua, which is heroically fighting for its freedom and independence, will also bravely withstand this trial.

The delegation of the Ukrainian SSR considers that the forty-third session of the General Assembly is taking place in a generally improved political climate in

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which positive, dynamic changes have become a part of the very fabric of international relations.

The present year is particularly significant for our Organization as regards the enhancement of its activities as it seeks ways to resolve regional conflicts. The United Nations, throwing off the dead weight of the spirit of confrontation, is ever more broadly expanding its peace-making potential and using the mechanisms and procedures for the peaceful settlement of disputes enshrined in the Charter.

However, in order for the United Nations to prove equal to the tasks of the nuclear space age and to promote the process of renewal of world politics and create a democratically organized international community, it is essential to guarantee the primacy of international law and relations. To do this, there is a need for a broad international dialogue, both in the sphere of norm-setting and with regard to the development of mechanisms, procedures and institutions which would guarantee the effectiveness of legal norms and not allow States to violate their obligations. Here, of course, priority attaches to the general stability and long-term interests of mankind.

It is in the context of enhancing the effectiveness of the United Nations in the maintenance of international peace and security, and particularly as regards the attainment of the primacy of international law and international relations, that we view the question of the broader use of the capabilities of the International Court. The position of the Ukrainian SSR on that principled judicial organ of the United Nations has been set forth in detail in our recent statement to the Sixth Committee. In particular we emphasized the need to intensify the International Court's preventive activity and to increase its practical contribution to the prevention and ending of disputes and conflicts between States.

The overwhelming majority of Member States view the decision of the International Court with regard to military and paramilitary activities in and

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against Nicaragua primarily in the context of fundamental principles of the Charter. Strict compliance with those principles is essential for the establishment of the favourable conditions necessary for the successful implementation of the processes started in the Central American region following the Esquipulas Agreements.

Nicaragua's recourse to the International Court is evidence of its dedication to the purposes and principles of the Organization and presents a real possibility of solving contentious issues by political means. The constructive position of the Nicaraguan Government has also been reflected in the policy of national reconciliation within the country, which at the Sapoa negotiations succeeded in bringing about a cease-fire, greatly benefiting the peace process.

The international community welcomed the persistent efforts of the countries of the Contadora Group and its Support Group, and against that background there has been a tendency towards increased confidence among the Central American countries, and an increasing awareness of their responsibility for the fate of their region and the need to develop good-neighbourly relations.

At the same time the present situation in Central America cannot fail to cause serious concern in the international community. Such concern is quite apparent in the Secretary-General's report on the situation in Central America (A/43/729), in which he refers with alarm to the dangers which threaten the Esquipulas Agreements.

It is widely acknowledged that the main reason for the stagnation of the political settlement in the region lies in the continuing attempts to disregard the legitimate interests of Central Americans and to impose on Nicaragua and its people various "solutions" to its internal problems and to use the contras to block agreements already achieved. It is also evident that a constructive attitude towards Managua's appeals for the resumption of direct Nicaraguan-American negotiations, as also towards the proposals of the Soviet Union calling for the

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reduction of arms supplies to Central America, could enhance the chances for positive developments in the region.

In our interdependent world, any regional conflict not only brings incalculable suffering and distress to the States directly involved and diverts them from their social and economic development; it also destabilizes the international situation as a whole. If the foundations of international security are to be strengthened, it is first necessary that the right of peoples to their own paths of development be recognized and that there be an end to attempts to destabilize legitimate Governments and to impose, through interference from outside, alien social and political systems. Coercive methods cannot resolve any regional conflicts. What is needed is a quest for a peaceful settlement. The world community has instruments with which to engage in such a quest; they are the mechanisms, procedures and institutions available to the United Nations - its principal organs, inter alia, its principal judicial organ, the International Court of Justice.

The delegation of the Ukrainian SSR therefore intends to support the draft resolution that has been submitted.

The PRESIDENT (interpretation from Spanish): The Assembly will now take a decision on draft resolution A/43/L.14. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Ecuador, Ethiopia, Finland, German Democratic Republic, Ghana, Greece, Guinea-Bissau, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Maldives, Mali, Mexico, Mongolia, Mozambique, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Romania, Sao Tome and Principe, Seychelles, Spain, Sudan, Swaziland, Sweden, Syrian Arab Republic, Trinidad and Tobago, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe

Against: Israel, United States of America

Abstaining: Antigua and Barbuda, Bahrain, Belgium, Brunei Darussalam, Central African Republic, Chad, Costa Rica, Côte d'Ivoire, Dominica, Dominican Republic, Egypt, El Salvador, Equatorial Guinea, France, Germany, Federal Republic of, Grenada, Guatemala, Honduras, Italy, Jamaica, Japan, Jordan, Lebanon, Liberia, Luxembourg, Malaysia, Malta, Mauritius, Morocco, Netherlands, Niger, Oman, Portugal, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sri Lanka, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Yemen, Zaire

Draft resolution A/43/L.14 was adopted by 89 votes to 2, with 48 abstentions (resolution 43/11).*

The PRESIDENT (interpretation from Spanish): I now call on those representatives who wish to explain their votes.

*Subsequently the delegation of Ghana advised the Secretariat that it had intended to vote in favour.

Mr. VAN WULFFTEN PALTHE (Netherlands): I have asked to speak in order to explain briefly the reasons why the Netherlands decided to abstain on the resolution just adopted.

In the Netherlands' view, respect for the rule of law in international relations and in the peaceful settlement of disputes is of paramount importance, and the International Court of Justice is the principal body of the United Nations for upholding this principle. Therefore the Kingdom of the Netherlands has recognized the compulsory jurisdiction of the Court, without any reservations. Unfortunately only a few States have done so, while in our view all Member States should accept such compulsory jurisdiction.

In the past the Netherlands has always voted in favour of the resolution on this subject because it considers that decisions of the International Court of Justice should be complied with. However, a draft resolution that calls for compliance with a Judgment of the International Court of Justice is incomplete without a paragraph calling on States to recognize the compulsory jurisdiction of the Court. It is somewhat ironical that most of the countries that supported the resolution just adopted do not recognize the compulsory jurisdiction of the Court and show no intention of doing so. Moreover, in our view the support of these States for this resolution seems to be based not on a genuine desire to enhance respect for the Court, but rather on a desire to meet short-term political objectives. It would be highly regrettable if the International Court of Justice were thus to be abused for political motives.

We continue to have serious reservations about the yearly recurrence of such a resolution. The resolution, furthermore, does not in any way add new elements to the existing situation and in no way contributes to current peace initiatives in Central America.

For all these reasons the Netherlands abstained on the resolution just adopted.

Mr. TETU (Canada): Just as we did at the forty-second session of this Assembly, Canada voted in support of the resolution on the International Court of Justice case on Nicaragua. In so doing we wish to emphasize our belief in the importance of all States refraining from interfering in the internal affairs of others. We remain well aware of the complexities of the questions that were before the Court in this case and note that there were dissenting judgements.

In voting for the resolution, Canada is once more registering its full support for the Court as the highest judicial body in the United Nations system. We also urge the parties to act within the spirit of the Court's decision and to seek a peaceful solution to the matters in dispute. We add the hope, in the interest of efficiency, that this item will not in future be routine' inscribed on our agenda.

Mr. VILLAGRAN DE LEON (Guatemala) (interpretation from Spanish): The delegation of Guatemala offers its deepest sympathy to the people and Government of Nicaragua at the loss of life and material damage caused in the last few days by the hurricane in Central America.

In principle, Guatemala firmly believes in compliance with international treaties, the findings and judgments of the International Court of Justice and the decisions of arbitration tribunals.

Guatemala recognizes that in some exceptional situations it may be difficult or complicated for countries to comply with or carry out the rulings of international tribunals. In such cases, it is incumbent upon the parties to determine or find ways and means of complying, and, if they are unable to do so, to have recourse to the mechanisms established by international law.

Nicaragua and Honduras, for example, with the agreement of the other Central American countries, discussed the revision of an international decision that settled a territorial dispute, and when it became clear that the revision was not going forward they complied with the original ruling. Other Latin American

(Mr. Villagran de Leon, Guatemala)

countries have faced difficulties in complying with international rulings and decisions. It should be noted, however, that the goodwill of the parties made it possible to overcome those difficulties.

The delegation of Guatemala believes it important to urge the countries directly interested in a problem of this kind to explore the best way of complying with the ruling of the International Court of Justice, with the assistance of the Secretary-General. For this reason, in accordance with the instructions of our Government, we abstained in the voting on draft resolution A/43/L.14.

Had it not been for the heavy agenda with which the President of the Assembly, the Foreign Minister of Argentina, Mr. Dante Caputo, had to deal, we might have felt that he could play a useful role in bringing the parties together, especially in view of his knowledge and capable handling of similar situations with which his country has been involved in recent years. We just mention it for what it is worth.

The PRESIDENT (interpretation from Spanish): We have concluded our consideration of agenda item 33.

AGENDA ITEM 26

CO-OPERATION BETWEEN THE UNITED NATIONS AND THE ORGANIZATION OF AFRICAN UNITY

- (a) REPORT OF THE SECRETARY-GENERAL (A/43/497 and Add.1)
- (b) DRAFT RESOLUTION (A/43/L.1 and Corr. 1 and 2)

The PRESIDENT (interpretation from Spanish): I call on the representative of the United Republic of Tanzania, who will introduce draft resolution A/43/L.1 and Corr.1 and 2.

Mr. CHAGULA (United Republic of Tanzania): Co-operation between the United Nations and the Organization of African Unity (OAU) has now become a permanent agenda item at all regular sessions of the United Nations General Assembly and this co-operation has greatly benefited both Organizations, particularly as Africa attaches great importance to the purposes and principles of the United Nations and all member States of the OAU are committed to the Charter of the United Nations as an instrument for maintaining international peace and security and for promoting the economic and social development of States. Thus, it is not by accident that the two organizations over the last nearly three decades have continued to collaborate very closely in trying to solve such diverse problems as the refugee problem and various emergency situations in Africa, the decolonization and apartheid problems in southern Africa and elsewhere in the region, including Namibia, the problem of development in general and, most recently, that of the economic recovery and development process as a result of the current critical economic situation in Africa.

These are only some of the areas of co-operation between the OAU and the United Nations and, needless to say, the list is continually changing every year as

(Mr. Chagula, United Republic
of Tanzania)

a reflection of the evolving nature of the development needs and aspirations of the member States of the region as well as their perception of their role in an interdependent community of nations. Of special importance in this regard at this point in time is the implementation of the United Nations Programme of Action for African Economic Recovery and Development 1986-1990, about which the President of Mali and current Chairman of the OAU and various heads of delegations have already made statements during the current session of the Assembly.

It is on this collaboration that the report of the United Nations Secretary-General (A/43/497 and Add.1) is based and delegations can see very clearly in this report the various areas of collaboration between the OAU and the United Nations system as a whole, on which it is unnecessary for me to enlarge or comment.

It is against this background that, on behalf of the African Group, I have much pleasure in introducing to the Assembly draft resolution A/43/L.1 and Corr.1 and 2, entitled, "Co-operation between the United Nations and the Organization of African Unity".

The draft resolution before the Assembly is more or less similar to the draft resolutions adopted at previous sessions, and under it the General Assembly, inter alia, first,

"Reaffirms that the implementation of the United Nations Programme of Action for African Economic Recovery and Development 1986-1990 is the responsibility of the international community as a whole and commends the efforts undertaken by African countries in spite of the effects of the adverse international economic environment;"

(Mr. Chagula, United Republic
of Tanzania)

second,

"Calls upon the Secretary-General of the United Nations to continue to ensure closer co-operation and co-ordination with the Secretary-General of the Organization of African Unity in the implementation and monitoring of the United Nations Programme of Action for African Economic Recovery and Development 1986-1990 as well as in the search for solutions to Africa's debt and debt-servicing burden, taking into account Africa's common position on its external debt, adopted by the Heads of State and Government of the Organization of African Unity at their extraordinary summit held in Addis Ababa in November and December 1987, and within the terms of the Medium-term Review of the Programme of Action, to consult the Organization of African Unity with a view to establishing a group of experts to undertake an in-depth assessment of the question of commodities of interest to Africa and the scope for export diversification;"

third,

"Requests all Member States, United Nations bodies, the specialized agencies and all other relevant organs of the United Nations, as well as non-governmental organizations, to activate and increase their programme of assistance to African subregional organizations for drought and desertification control such as the Permanent Inter-State Committee on Drought Control in the Sahel and the Intergovernmental Authority for Drought and Development;"

(Mr. Chagula, United Republic
of Tanzania)

fourth,

"Reiterates its appreciation to the Secretary-General of the United Nations for his efforts, on behalf of the international community, to organize and mobilize special programmes of economic assistance for those African States facing grave economic difficulties, the front-line States and other independent States of southern Africa to help them to withstand the effects of the acts of aggression and destabilization committed by the apartheid régime of South Africa;"

fifth,

"Expresses its appreciation to the United Nations Development Programme, the Office of the United Nations Disaster Relief Co-ordinator, the World Food Programme, the Food and Agriculture Organization of the United Nations, the World Health Organization, the United Nations Children's Fund, the United Nations High Commissioner for Refugees and the United Nations Institute for Training and Research for the assistance so far rendered to the African States in dealing with the emergency situation as well as with the critical economic problems that exist on the African continent;"

sixth,

"Requests the Secretary-General to take the necessary measures to strengthen co-operation at the political, economic, cultural and administrative levels between the United Nations and the Organization of African Unity in accordance with the relevant resolutions of the General Assembly, particularly with regard to the provision of assistance to the victims of colonialism and apartheid in southern Africa;"

(Mr. Chagula, United Republic
of Tanzania)

seventh,

"Urges the international community to contribute generously to the Assistance Fund for the Struggle against Colonialism and Apartheid established by the Organization of African Unity and to the Action for Resisting Invasion, Colonialism and Apartheid Fund, established by the Movement of Non-Aligned Countries;"

eighth,

"Calls upon the United Nations organs - in particular the Security Council, the Economic and Social Council, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Special Committee against Apartheid and the United Nations Council for Namibia - to continue to associate the Organization of African Unity closely with all their activities concerning Africa;"

and finally:

"Requests the Secretary-General of the United Nations to invite the representative of the Secretary-General of the Organization of African Unity to participate in the meetings of the United Nations Steering Committee and its Inter-Agency Task Force and working groups on the implementation of the United Nations Programme of Action for African Economic Recovery and Development 1986-1990."

(Mr. Chagula, United Republic
of Tanzania)

Having pointed out the salient features of the draft resolution for consideration by this Assembly, and in view of the wide consultations we have held with other regional groups on the draft resolution - indeed, we have twice had to postpone consideration of this item - it is our sincere hope that the General Assembly will adopt it by acclamation.

Mr. ZEPOS (Greece): I have the honour to speak on behalf of the European Community and its 12 member States.

The Twelve are pleased to speak once again in the debate on co-operation between the United Nations and the Organization of African Unity (OAU). It is an opportunity for us to reaffirm the importance which we attach to the relationship between the two Organizations. Co-operative efforts bring about positive results.

The close historical, cultural and geographical links between European countries and Africa give that continent a special place in our considerations. Our own long practical experience of regional co-operation makes us realize the very great benefits it can bring, and therefore we wish to encourage it. The Twelve believe that the way in which African countries are working together deserves the full support of the United Nations. We are pleased to note that the links between the Organization of African Unity and the United Nations have intensified over the years in all fields, as demonstrated in the Secretary-General's report.

The Twelve are convinced that an important role is reserved for the Organization of African Unity in consolidating the national independence of its members, both politically and economically, particularly in today's more positive international climate. Where there are conflicts, we believe that the countries most directly concerned should be encouraged to find solutions. This applies

(Mr. Zepos, Greece)

whether the problem is political, economic, social or environmental. African problems are best settled through African solutions. We are pleased to note the active work of the Organization of African Unity in a number of difficult areas. We particularly welcome the close co-operation between the Secretary-General of the United Nations and the current Chairman of the Organization of African Unity in seeking peaceful solutions to African problems, notably the problem of Western Sahara. Indeed, the Organization of African Unity has an important role to play in ensuring that the peoples of Africa are able to determine their own future freely and without outside interference.

Africa is endowed with vast potential resources, and yet it contains more than half the world's economically least developed countries. The Twelve wish to co-operate as much as possible with all African countries and to assist in finding solutions to their present economic and social problems. In recent years the European Community and its 12 member States have contributed over 50 per cent of the total aid received by African countries. The European Community played an active role in the recent successfully concluded Mid-term Review of the Programme of Action for African Economic Recovery and Development 1986-1990. In order to solve their particular difficulties, African countries need additional resources. We stand by our commitment to participate in the efforts to provide these resources. The major contribution of the European Community and its member States is evidence of their commitment to the objectives of the United Nations Programme of Action.

The Twelve regard their commitment to Africa in all these different areas as a way of safeguarding the stability of the continent and broadening our co-operation both with African Governments themselves and with regional organizations and the Organization of African Unity.

(Mr. Zepos, Greece)

We are convinced that the OAU will continue to play a significant role in African and world affairs, consistent with the principles guiding the United Nations and in pursuit of the goals of that Organization. We are confident that the close ties of friendship and co-operation which exist between the Twelve and all members of the Organization of African Unity will be even further strengthened in all fields in the years ahead.

The PRESIDENT (interpretation from Spanish): The Assembly will now take a decision on draft resolution A/43/L.1 and Corr.1 and 2.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaïre, Zambia, Zimbabwe

Against: United States of America

Draft resolution A/43/L.1 and Corr.1 and 2 was adopted by 140 votes to 1 (resolution 43/12).*

The PRESIDENT (interpretation from Spanish): I call on the representative of the United States, who wishes to speak in explanation of vote.

Mr. NELSON (United States of America): Much of the success of the international debt strategy is due to the work of the International Monetary Fund and the World Bank. Multilateral consideration of the issue of the debt of less developed countries is best confined to legally and technically competent

* Subsequently the delegation of Bangladesh and Papua New Guinea advised the Secretariat that they had intended to vote in favour.

(Mr. Nelson, United States)

institutions: that is, the International Monetary Fund and the World Bank and their relevant committees. We are concerned that this resolution, by inviting United Nations participation, will undermine the strong and effective steps taken so far, with proved success, to address the debt problem on a case-by-case basis.

Mr. CHAGUIA (United Republic of Tanzania): The draft resolution on co-operation between the Organization of African Unity (OAU) and the United Nations has traditionally been adopted by the General Assembly without a vote. Therefore it is a matter of regret and grave concern that for a reason that is not substantive the delegation of the United States has this time found it necessary to vote against the draft resolution as a whole, although we held very wide consultations and twice delayed consideration of this draft resolution by the Assembly. On behalf of the African Group, I wish to express our deep disappointment in this regard, and I should like this statement to be reflected in the records of the Assembly.

The PRESIDENT (interpretation from Spanish): The Assembly will take note of the statement by the representative of the United Republic of Tanzania.

That concludes our consideration of agenda item 26.

EXPRESSION OF SYMPATHY TO THE GOVERNMENTS AND PEOPLES OF CENTRAL AMERICA

The PRESIDENT (interpretation from Spanish): On behalf of the members of the Assembly and on my own behalf, I should like to extend to the Governments and peoples of the Central American countries recently struck by a disastrous hurricane our deepest sympathy at this major disaster, which has caused tragic loss of life and extensive material damage. The effects of the hurricane were particularly serious in Nicaragua.

(The President)

May I also express the hope that the international community will demonstrate its solidarity by responding promptly and generously to any request from those countries in Central America for assistance in their present plight brought about by this new natural disaster.

ORGANIZATION OF WORK

The PRESIDENT (interpretation from Spanish): First, I have to announce that at the request of the Chairman of the African Group of States, agenda item 36, "Policies of Apartheid of the Government of South Africa", will be the first item taken up at tomorrow afternoon's meeting.

Secondly, I have received a request from the Chairman of the Group of Arab States that the question of the uprising in occupied Arab territories be considered, at a meeting of the General Assembly, under agenda item 77, "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories". The letter containing that request will be issued as a General Assembly document tomorrow morning. It is my intention that this request be considered by the Assembly during tomorrow afternoon's meeting, after the consideration of agenda item 15.

The meeting rose at 5 p.m.