



Security Council

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PROVISIONAL VERBATIM RECORD OF THE TWO THOUSAND
SEVEN HUNDREDTH MEETING

Held at Headquarters, New York,
on Tuesday, 29 July 1986, at 10.45 a.m.

President: Mr. RASEMSRI

(Thailand)

Members: Australia
Bulgaria
China
Congo
Denmark
France
Ghana
Madagascar
Trinidad and Tobago
Union of Soviet Socialist Republics
United Arab Emirates
United Kingdom of Great Britain and
Northern Ireland
United States of America
Venezuela

Mr. HOGUE
Mr. GARVALOV
Mr. LI Luye
Mr. GAYAMA
Mr. BRUCKNER
Mr. de REMOULARIA
Mr. DUMEVI
Mr. RAKOTONDRAHMANA
Mr. GRANDERSON
Mr. SAFRONCHUK
Mr. SHIKIR

Mr. MAXEY
MR. WALTERS
Mr. PABON GARCIA

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The meeting was called to order at 11.15 a.m.

EXPRESSION OF GOOD WISHES TO THE SECRETARY-GENERAL

The PRESIDENT: It is with deep regret that the Secretary-General cannot be present at this meeting of the Security Council as he is indisposed. I am sure that all members of the Council would wish me, as President, to convey to the Secretary-General our best wishes for a full and speedy recovery.

As I hear no objection, it is so agreed.

ADOPTION OF THE AGENDA

The agenda was adopted.

LETTER DATED 22 JULY 1986 FROM THE PERMANENT REPRESENTATIVE OF NICARAGUA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL (S/18230)

The PRESIDENT: I should like to inform members of the Council that I have received a letter from the representative of Nicaragua, in which she requests that her delegation be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite the delegation of Nicaragua to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

His Excellency Comandante Daniel Ortega Saavedra, President of the Republic of Nicaragua, was escorted into the Security Council Chamber and to a place at the Council table.

The PRESIDENT: I should like to inform members of the Council that I have also received letters from the representatives of Cuba, Democratic Yemen, El Salvador, India and the Ukrainian Soviet Socialist Republic, in which they

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request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Oramas Oliva (Cuba), Mr. Al-Ashtal (Democratic Yemen), Mr. Meza (El Salvador), Mr. Krishnan (India) and Mr. Oudovenko (Ukrainian Soviet Socialist Republic) took the places reserved for them at the side of the Council Chamber.

The PRESIDENT: The Security Council will now begin its consideration of the item on the agenda.

The Security Council is meeting today in response to the request contained in the letter dated 22 July 1986 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council, document S/18230.

Members of the Council also have before them the following documents: S/18221, letter dated 11 July 1986 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council; S/18227, letter dated 18 July 1986 from the Acting Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General; and S/18244, letter dated 28 July 1986 from the Permanent Representative of India to the United Nations addressed to the Secretary-General.

The first speaker on my list is the President of the Republic of Nicaragua, His Excellency Comandante Daniel Ortega Saavedra. I welcome His Excellency and invite him to make his statement.

President ORTEGA SAAVEDRA (interpretation from Spanish): On 25 March 1982, exactly four years, four months and four days ago today, I came to New York in order to explain to the Security Council, the highest body entrusted with preserving international peace and security, the situation then prevailing in Central America and the serious consequences that President Reagan's policy towards Nicaragua had for the region and for the entire international community.

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At that time, we said that we had come to this forum because we shared the concern of the international community, the concern of the United States press, of United States political, trade-union and religious leaders, of intellectuals and of the American people, of the everyday citizens of this great country, who reject another Viet Nam in their history and who want peace.

We expressed at that time our willingness to make every effort to avoid a disaster. I believe that the history of these past four years has confirmed our concern at the war of which we are the victims and has demonstrated the sincerity of our commitments and efforts for peace.

I have come here today to deal with a subject that is of concern not only to Nicaragua, not only to each and every one of the members of this Council, but to all Members of the United Nations. I have come here to speak of the very survival of the international legal order and of international law. Today, the survival of international law is threatened. It is up to the nations of the world, and to the members of this Council in particular, to defend and preserve it.

International law guarantees to every State the right to self-determination, the right freely to choose its own economic, political and social structures free from interference or intervention by any State or States. International law guarantees to every State its sovereignty, territorial integrity and political independence and prohibits any foreign interference in those basic rights. International law also prohibits the use of armed force by one State against another, with the sole exception of the right to self-defence in the case of armed attack. International law does not differentiate between States on the basis of their size or geopolitical location. Without international law, fundamental rights would disappear: there would be no rights; there would be no justice. Might would replace law. Bloodshed and human suffering would proliferate and we, the small States, would be rendered totally defenceless.

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The present international legal order is a fragile one. There is no executive authority or any permanent international police force with the power to oblige compliance with international law. It is difficult, if not impossible, physically to compel a State to fulfil its international legal obligations. If international law is not respected, if we reject the law and the obligations it imposes upon us, any State may be tempted to follow a bad example, and then international law will be in danger of extinction. 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 legal 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.

The 16 judges of the Court represent a wide range of the world's legal systems and constitute a body of eminent and respected intellectuals and legal experts. They are men of high moral standing and objectivity. Not only are their decisions legally binding upon the parties that appear before them; they also constitute statements and interpretations of the law that must be respected by all nations.

The International Court of Justice has handed down its decision in the case of Nicaragua and the United States of America. After 26 months of litigation, testimony and painstaking deliberation, the Court decided on the merits of the case. That decision now forms part of international law.

In its principal judgement, the International Court of Justice decided:

"that the United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting

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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, para. 292 (3)).

The Court also decided that the United States, in carrying out certain naval and air attacks against Nicaraguan territory, by the use of armed force and United States intelligence personnel,

"has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to use force against another State" (para. 292 (3)).

The Court also decided that,

"by laying mines in the internal or territorial waters of the Republic of Nicaragua during the first months of 1984, the United States of America has acted, against the Republic of Nicaragua, in breach of its obligations under customary international law, not to use force against another State, not to intervene in its affairs, not to violate its sovereignty and not to interrupt peaceful maritime commerce" (para. 292 (6)).

The Court decided that there was no legal justification for any of those activities. It explicitly rejected the justification of collective self-defence maintained by the United States of America in connection with the military and paramilitary activities in and against Nicaragua.

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As a result of those decisions the Court ordered the United States immediately to cease and desist from all these illegal activities and to compensate Nicaragua for the damages suffered.

It is important to emphasize that on each of these aspects the Court's vote was virtually unanimous: on certain points the vote was 14 to 1, with the negative vote cast by the judge from the United States; on other points the vote was 12 to 3, but even then only the United States judge supported the United States position; the British and Japanese judges refused to join the majority solely because they felt that it did not have jurisdiction, not because they agreed with the United States.

The Court's opinion is a model of legal wisdom, judicial solemnity and objectivity. The Court carefully considered each of the arguments adduced by the United States Government to justify to the world, and more particularly to public opinion back home, its policy of intervention and use of force against Nicaragua. After a thorough and painstaking analysis the Court rejected all those arguments. The main argument of the United States has been that its actions against Nicaragua constitute collective self-defence, because Nicaragua, by allegedly sending weapons to Salvadorian revolutionaries, was involved in an armed attack against El Salvador. The Court found that argument to be groundless.

First, the Court decided that the evidence submitted by the United States to it, to international organizations and to the public in general was insufficient to satisfy it that the Government of Nicaragua was responsible for any flow of weapons to Salvadorian revolutionaries.

Hence the Court rejected the very basis of the United States charges against Nicaragua. It also rejected the United States argument that Nicaragua was exporting its revolution to neighbouring Central American countries.

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The Court also considered the United States argument that Nicaragua had broken certain commitments that it had allegedly made to the Organization of American States (OAS) in connection with its own internal political system and that instead of fulfilling those supposed commitments it had established a dictatorship which did not respect human rights. First of all, the Court found that Nicaragua had never made any binding legal commitment to the OAS in connection with its internal political system. Furthermore, the Court indicated that even if certain commitments had been undertaken Nicaragua had in fact fulfilled them.

The Court expressly declared that in November 1984 Nicaragua had held elections for the presidency, vice-presidency and National Assembly, that seven political parties had participated in them, and that those elections had been monitored by international observers. The Court also pointed out that Nicaragua had fulfilled its pledge to invite and welcome representatives of the Inter-American Human Rights Commission, who were permitted to conduct a complete on-site investigation of human rights practices in Nicaragua and to report on the results. Lastly, the Court found that, even if there had been a legal commitment to the OAS which had been broken, that would not have justified United States insistence on the fulfilment of a commitment made not directly to the United States, but rather to the organization, which is the only one with the authority to monitor its implementation.

In what constitutes the most important paragraph in its decision, the Court declared that the United States discontent with Nicaragua's political, social and economic system could not give it any right to intervene in Nicaragua's internal affairs. The strong and eloquent affirmation of the principle of State sovereignty was expressed as follows by the Court:

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"Regardless of the system in Nicaragua the adherence of a State to any doctrine does not constitute a violation of customary international law; to say the opposite would leave devoid of significance the fundamental principle of State sovereignty on which rest all international law and the right of a State to choose its political, social, economic and cultural system. The Court cannot accept or permit the creation of a new rule which allows for the right of intervention by one State in another on the basis of the latter having chosen a given ideology or political system."

The last United States argument considered by the Court was the supposed "excessive militarization" of Nicaragua - an argument which is of course equally inconsistent, since at the same time as the United States was intervening militarily in our internal affairs, carrying out armed attacks against our vital economic installations and mining our ports, it was complaining about the acquisition of the weapons necessary for us to defend ourselves against those illegal activities. It is natural that the Court rejected that argument by affirming:

"In the opinion of the Court it is irrelevant and inappropriate to accept this allegation by the United States since in international law there are no other rules than those accepted voluntarily by the State concerned, by treaty or in some other form, in which the level of weapons of a sovereign State can be limited, and this principle is valid for all States without exception."

When Nicaragua instituted this historic case in April 1984, our Foreign Minister, Father Miguel D'Escoto, explained that we did so to lay claim to the Nicaraguan people's unquestionable right to its sovereignty and self-determination, a guarantee for its own economic and social development free of any intervention; and in order to confirm, restore and strengthen the right of small States,

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particularly all non-aligned States, to their sovereignty, political independence and territorial integrity. He added that Nicaragua was instituting those proceedings in order to support and strengthen our conduct in international relations.

In appealing to the International Court of Justice, Nicaragua sought not only to lay claim to its legal rights but also accepted its own legal obligations. In law there are no rights without corresponding obligations. We can insist on our rights before the law only if we accept the obligations that the law imposes upon us.

(President Ortega Saavedra)

In submitting to the jurisdiction and authority of the International Court of Justice we solemnly and irrevocably pledged to observe the obligations imposed by the Court whatever its decision might be and to fulfil the obligations contracted under international law. This remains Nicaragua's unalterable policy. We have voluntarily and irrevocably committed ourselves to respect and obey international law and we will fulfil that commitment.

We cannot fail to point out that, following the Court's judgement, instead of improving, the situation in the Central America region has worsened and become further aggravated and more difficult.

The continued interference of the United States Government in the internal affairs of Nicaragua and the other countries in the region, its systematic blockage and rejection of all peaceful initiatives and its attempt to impose solutions by force have become evident to the international community as has the grave danger to regional and international peace posed by the persistence of the United States Government's stepped-up militarist policy against Nicaragua.

The military infrastructure created in the past five years by the United States in the region with the construction of military bases, training centres, the constant carrying out of vast military manoeuvres and the introduction of military equipment unprecedented in the region are aimed at dealing a mortal blow to the Nicaraguan Revolution.

The military presence of the United States in Central America is aimed not only at undermining the sovereignty of the countries of the region but also at establishing a precedent attacking the integrity and independence of the Latin America and Caribbean States.

Nothing better illustrates to the world the nature of this policy than the illegal intervention by the United States Government against the people and Government of Nicaragua.

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In this dirty war 31,290 Nicaraguans have fallen victim, 14,260 of whom were Nicaraguan patriots who fell in defence of the sovereignty, independence and self-determination of the homeland, a cruel war imposed upon us which has claimed as victims 974 innocent children and caused our small country material damage in excess of \$2 billion.

As if this were not cruel enough, at the request of the President of the United States the House of Representatives approved an allocation of \$100 million, weapons of all types, and military advisers from the United States Army so that the mercenary forces, organized, guided and trained by the United States Government itself could intensify their policy of death and destruction against the people of Nicaragua, the terrorist policy which yesterday claimed the lives of three international workers - Bernard Erych Kuvetseein of the Federal Republic of Germany, Ivan Claude Leyvraz of Switzerland, and Joel Stuck of France - who were working in social programmes for the benefit of the Nicaraguan people.

However, nothing can ever bend our people's firm will to defend its dignity. Today, as in the past, we must repeat that neither threats, blockades nor invasions can destroy the firm resolve to preserve our legitimate right to self-determination. For this we the Nicaraguan people, 3.5 million of us - men, women, young people, children and elderly - are prepared to give our lives.

Today, as in the past, we repeat that we do not want confrontation, that we have come before the Security Council not to insult the Government of the United States but rather to seek peace and respect for international law; to seek a peaceful and honourable solution to our differences; to offer once again an opportunity to the United States Government to reconsider its policy and bring its conduct into line with the norms and principles of international law.

(President Ortega Saavedra)

A few days ago we heard President Reagan say that imposing a trade embargo against the odious régime of apartheid in South Africa would be an immoral act because it would harm the South African people. However, President Reagan has imposed a trade embargo against Nicaragua that harms the Nicaraguan people.

President Reagan must recognize the immorality of the State terrorism that his administration has been practising against the Nicaraguan people. President Reagan must recognize that that course of action is promoting another Viet Nam in Central America which will claim the lives of American young men.

His own ambassador in Honduras, Mr. John Ferch, confirmed this militarist trend, stating that if the present policy were continued the \$100 million recently approved by the House of Representatives would be but a "down-payment" on much greater aid. He added that he felt himself a victim of deception on the part of his own Government: "I am beginning to feel that I accepted something that was not true", since, while he had believed in the statements in favour of a negotiated solution, he was convinced that in fact the goal of the policy in Nicaragua was something different: "It is purely military". This was stated by the United States ambassador to Honduras a few days ago.

Faithful to our desire for peace, we have made every possible effort to guarantee the success of the peaceful endeavour of the countries of the Contadora group and the Lima group on behalf of Latin America. On 17 June of this year, in one more effort and for the second time, we were the only country to indicate to the Contadora Group that we were prepared to sign the most recent revised version of the Act of Peace in the framework of action contemplated in the Panama Message of 6 June. Everyone here is aware that the efforts of that group of countries are jeopardized because of the lack of political will on the part of the present United States Government to give real support to that endeavour.

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The United States Administration's two-faced Contadora policy of rhetorical support coupled with an effective boycott through the pressure and blackmail of military action in the region confirms Washington's disdain for the quest for peaceful, political solutions.

The United States Government should correct that policy. By doing so it would incur not humiliation but honour; indeed, it would gain the respect and appreciation of the international community.

Nicaragua is prepared immediately to undertake negotiations with the United States Government in order to overcome existing problems and normalize relations.

The future of international law, the future of the international legal order and all it represents are now in the Council's hands. If the decision of the International Court of Justice, which was based on fundamental principles of international law, is not respected and supported, what will be the fate of the Court? What will be the fate of the international legal order and of the fundamental principles of international law, on which the Court based its decision? We are convinced that the Council will give its support so that the Court will not be undermined, so that the fragile structure of international law will not suffer a mortal blow but, on the contrary, be strengthened.

No one is more committed than are the members of the Security Council to promoting respect for the Court and for law in relations among States. Nicaragua is not asking that anyone be condemned. Nicaragua is only asking for a declaration of support for the International Court of Justice and for law in international relations.

(President Ortega Saavedra)

We are certain that the Security Council will unreservedly support the international legal order, the United Nations Charter and the International Court of Justice and thus defend the justice, peace and self-determination to which small peoples such as the people of Nicaragua are entitled.

The PRESIDENT: I thank the President of the Republic of Nicaragua for his statement.

His Excellency Mr. Daniel Ortega Saavedra, President of the Republic of Nicaragua, was escorted from the Security Council Chamber.

The PRESIDENT: The next speaker is the representative of El Salvador. I invite him to take a place at the Council table and to make his statement.

Mr. MEZA (El Salvador) (interpretation from Spanish): At the beginning of this month the Security Council met specifically to discuss relations between the United States and Nicaragua. My delegation participated in that debate not to defend the interests of other countries but rather to make our own position clear on the Central American crisis, and in particular to defend my own country's interests.

On this occasion we wish to reiterate the views we expressed then. We cannot refrain from speaking again since it is difficult if not impossible to establish limits in the apparently bilateral controversy being discussed here and separate it from the regional problem involving interrelated, often inflexible factors and forces, opposed to a change of attitude, all of which affect the crisis we are now experiencing. Thus far they have been difficult to reconcile, but they must be overcome if Central America is ever to enjoy peace and stability.

In this respect, without wanting to call into question the good faith of the International Court of Justice in considering the case of military and paramilitary activities in and against Nicaragua, I should like to expand on the quotation just made by President Ortega Saavedra before the Council, which was limited to the

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part that is of interest to Nicaragua. I shall therefore quote from chapter VIII - paragraphs 126 to 171 - on the conduct of Nicaragua, which states that after considering certain evidence the Court concluded that there had been support for the Salvadorian armed opposition from Nicaraguan territory until the early months of 1981, and that there was insufficient evidence to affirm that Nicaragua was responsible for a flow of weapons in any other period of time. Therefore, of course, in connection with what President Ortega has just stated, it cannot be proved that Nicaragua has been involved in aiding the Salvadorian guerrilla movement since that period, but the International Court of Justice has determined that at that time Nicaragua was in fact aiding the Salvadorian guerrilla movement.

These are conclusions that affect my country's interests and they add an element of confusion to an objective analysis of the situation in El Salvador, the development of the crisis and the outside factors that have promoted it. Hence, we must state our position in this connection.

(Mr. Meza, El Salvador)

My Government cannot accept these ideas, because they are conclusions drawn from a partial analysis of a larger problem not considered in depth from the standpoint of the different interrelated factors of the situation which we have been experiencing and suffering directly.

Since 1980, the Salvadorian community has been confronted by the existence of armed groups that have now set reason aside and chosen the course of violence to gain access to power. Those groups, in the context of Salvadorian political reality - we have had not one, but four internationally supervised elections - have survived thanks only to the support and solidarity of Nicaragua, turning that country into a centre and channel for other, more distant, States to intervene in El Salvador in open violation of the principles of international law and of the Charter of the United Nations.

We have constantly denounced examples of the ways in which Nicaragua has intervened in El Salvador, and without repeating them on this occasion I feel it important to highlight certain statements by high Nicaraguan officials, present here this morning, who have expressed and acknowledged a Nicaraguan commitment and involvement in El Salvador, contrary to what was stated by the International Court of Justice.

In 1983, during the meeting of the Contadora Group, the then Salvadorian Foreign Minister, Mr. Fidel Chavez Mena, denounced the Minister for Foreign Affairs of Nicaragua, Mr. Miguel D'Escoto, who had openly acknowledged Nicaragua's material support for armed groups in El Salvador.

In 1984 the Government of El Salvador cancelled plans to send its delegation to events commemorating the Sandinista Revolution because prior to the celebration Daniel Ortega - who as Head of State just addressed us - had boasted to the German television service that any meeting he might have with President Duarte would not

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prevent his continued support for Salvadorian guerrilla forces. The Government of Nicaragua neither retracted nor offered any explanation or apology for that statement, as would befit civilized persons, which makes us deduce that Nicaragua has maintained its support for the Salvadorian guerrillas.

Indeed, support, direct and indirect, given by the Sandinistas has enabled armed groups to maintain the military capacity to adopt intransigent positions, causing vast damage to the economic infrastructure and population of El Salvador. The social cost has meant thousands and thousands of displaced persons, over 30,000 persons killed in armed clashes, many persons left handicapped and over \$1 billion in estimated physical damages - all of that the result of a senseless conflict that would have come to an end if not for the regrettable existence of political and ideological interests, such as those revealed this morning, that support violent forms of access to power.

All of this leads us to affirm that El Salvador has obviously been the victim of continuing aggression on the part of the Government of Nicaragua, which probably considers that the consolidation of its own system depends on exporting its revolution and on destabilizing the Government and democratic institutions not only of El Salvador but also of the other Central American countries.

Therefore, like any other victim of aggression, El Salvador, a small country without the means to confront aggression for very long, and, obliged to defend its sovereignty and institutionality, has in self-defence sought assistance and international co-operation through bilateral channels.

On many occasions the Government of Nicaragua has called upon this body to consider its situation - and, in particular, its relations with the United States - in order to gain respect for its rights as a State, including the right to request compensation.

(Mr. Meza, El Salvador)

The Government of El Salvador, in spite of considering itself a besieged country, the effects of which are clear, has refrained from appealing to this body because other forums for the consideration of regional problems have not yet been fully utilized. That includes the Contadora process, which has been given all our support and that of the rest of the world in its efforts to achieve a negotiated political solution to the Central American crisis.

None the less, since the subject being debated here affects all Central American countries, I think it important to state my Government's opinion that Nicaragua remains a destabilizing factor because of its approach, conduct and activities in the framework of the international legal-political structure and the exercise of power and democracy - a vision that differs from that of the rest of the Central American countries. This phenomenon has caused conflicts between Nicaragua and each of its Central American neighbours, making it almost impossible to generate trust, create a mechanism to fill the vacuum that exists in Central America and find concerted solutions to economic, political and security problems in the region.

The Government of El Salvador believes that if Nicaragua's actions and attitude towards its neighbours constitute a threat to international peace and security, the Security Council should urge that country to fulfil its commitments and take the necessary measures to reduce and eliminate sources of conflict and provocation. A country which invokes its rights in implementation of the principles of the Charter is also obliged to respect those principles.

(Mr. Meza, El Salvador)

At the same time, we believe that in the search for a political solution to the Central American crisis, Nicaragua must respect the will of the majority in Central America and not attempt to impose an individual view based on specific interests; in other words, its position should be brought into line with the principle of the majority and the right to the use of reason, instead of trying to impose agreement on the basis of the dictum that might makes right.

In conclusion, we believe it important to point out that the situation in Nicaragua, its ideological and political system, its relations with the United States and the commitments and/or military political indebtedness by the Sandinista Front to armed groups in El Salvador do not justify intervention by Nicaragua in the internal affairs of El Salvador. That is why we demand full respect for that principle, if Nicaragua wishes to maintain its right to call for compensation from any other Member State.

The PRESIDENT: There are no further names on the list of speakers for this meeting. The next meeting of the Security Council to continue the consideration of the item on the agenda will take place this afternoon at 3 o'clock.

The meeting rose at 12.15 p.m.

