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THE SITUATION IN CENTRAL AMERICA: THREATS TO INTERNATIONAL PEACE  
AND SECURITY AND PEACE INITIATIVES

Note by the Secretary-General

1. The attached document contains the first report of the United Nations Observer Mission to verify the electoral process in Nicaragua (ONUVEN), which was established in Nicaragua on 25 August 1989. The terms of reference of the Mission are set forth in a letter from the Secretary-General to the President of the General Assembly dated 6 July 1989 (A/44/375).
2. The report analyses the initial stages of the Nicaraguan electoral process and focuses on two key issues: the composition of the electoral authority and the organization of political parties and alliances. It also discusses at some length some specific problems affecting the mobilization of political parties and the electoral contest. This report will serve as a frame of reference for future ONUVEN reports.
3. As is already known, I have appointed Mr. Elliott Richardson as my Personal Representative to oversee the Mission's activities. The Chief of the Mission is Mr. Iqbal Riza of Pakistan and its Deputy Chief is Mr. Horatio Boneo of Argentina.
4. The Mission's next report will be produced in mid-November.

Evolution of the electoral process in Nicaragua: first report  
of the United Nations Observer Mission to verify the electoral  
process in Nicaragua to the Secretary-General

I. BACKGROUND AND ESTABLISHMENT OF THE UNITED NATIONS OBSERVER  
MISSION TO VERIFY THE ELECTORAL PROCESS IN NICARAGUA

A. The Central American peace process and the Nicaraguan request

1. In the Guatemala agreements (also known as the Esquipulas II agreements) signed on 7 August 1987 (A/42/521-S/19085), the Presidents of the five Central American countries undertook, *inter alia*, to promote the holding of free, pluralistic and fair elections in the Central American countries. The Governments concerned undertook to invite the United Nations and the Organization of American States (OAS) to send observers to verify the various electoral processes. The Guatemala agreements were reaffirmed in the San José Declaration of 16 January 1988. In a Declaration signed at La Paz, El Salvador, on 14 February 1989 (A/44/140-S/20491), the Central American Presidents stated that they had been informed by the President of Nicaragua that he was prepared to undertake a process of democratization and national reconciliation in the context of the Esquipulas II agreements and to hold elections in Nicaragua no later than 25 February 1990, and that international observers, in particular representatives of the Secretary-General of the United Nations and the Secretary-General of OAS, would be invited to be present in all electoral districts in order to verify that the electoral process was genuine. On 3 March 1989, the Minister for Foreign Affairs of Nicaragua sent a letter to the Secretary-General of the United Nations requesting the establishment of a group of observers to verify that the Nicaraguan electoral process was genuine at every stage.

B. Establishment of the Mission

2. In his letter dated 5 April 1989 (A/44/210) addressed to the President of the General Assembly, the Secretary-General said that he intended to consider the request from the Government of Nicaragua on the understanding that, if the United Nations agreed to it, it would not be creating a precedent. He cited special factors, such as the fact that the request had the support of the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, in the context of Central American peace efforts. He also referred to General Assembly resolution 43/24 of 15 November 1988, in paragraph 6 of which the Assembly requested him "to afford the fullest possible support to the Central American Governments in their efforts to achieve peace, especially by taking the measures necessary for the development and effective functioning of the essential verification machinery". Lastly, he indicated that acceptance of that task, if it was to be carried out as seriously and exhaustively as would be required, would entail unanticipated expenditures and that he would be obliged to enter into financial commitments in accordance with the authority entrusted to him under General Assembly resolution 42/227.

3. In his letter dated 6 June 1989 (A/44/304), the Secretary-General informed the President of the General Assembly that he had sent several missions to Nicaragua in the context of consideration of the Nicaraguan request, that an in-depth study had been made of legal instruments and that United Nations expert consultants had submitted a report to the Nicaraguan Government containing a number of suggestions. He also indicated that he considered General Assembly resolution 43/24 as giving him sufficient legislative basis to undertake observation of Nicaragua's electoral process.

4. On 6 July 1989, the Secretary-General informed the President of the General Assembly of his decision to establish a United Nations Observer Mission to verify the electoral process in Nicaragua (A/44/375) and attached an agreement reached by exchange of letters between the United Nations and the Government of Nicaragua. In his letter, the Secretary-General had explained that his decision should not, of course, be construed as any kind of value judgement as to the laws in force in Nicaragua governing the electoral process. He had also proposed that the Mission should have unrestricted freedom of movement within all electoral districts, unrestricted access to all polling stations and unimpeded contacts with all political parties. The agreement established the terms of reference of the Mission as including the following functions:

(a) To verify that political parties are equitably represented in the Supreme Electoral Council and its subsidiary bodies;

(b) To verify that political parties enjoy complete freedom of organization and mobilization, without hindrance or intimidation by anyone;

(c) To verify that all political parties have equitable access to State television and radio in terms of both the timing and the length of broadcasts;

(d) To verify that electoral rolls are properly drawn up;

(e) To inform the Supreme Electoral Council or its subsidiary bodies of any complaints received or any irregularities or interference observed in the electoral process in order to ensure that the process is conducted in the best possible manner. Where appropriate, the Mission could also request information on any remedial action that might be required;

(f) To submit reports to the Secretary-General, who shall in turn inform the Supreme Electoral Council where appropriate. Reports shall be factual and objective and shall include comments or conclusions that reflect the Mission's role in verifying the electoral process.

5. On 27 July 1989, the Security Council, in its resolution 637 (1989), noted with appreciation the efforts undertaken by the Secretary-General in support of the Central American peace process, particularly his agreement with Nicaragua to deploy a United Nations elections observer mission in that country. In that resolution, the Council lent its full support to the Secretary-General to continue his mission of good offices in consultation with the Council in support of the Central American Governments in their effort to achieve the goals set forth in the Guatemala Agreement.

6. As part of the planning process for the Mission, the Secretary-General of the United Nations wrote to the Secretary-General of OAS on 8 May 1989 suggesting that the two organizations might observe the elections jointly. The Secretary-General of OAS replied on 22 June that OAS had already begun the observation, but that he attached special importance to the exchange of views and the dialogue on the possible form and modalities of collaboration between the two organizations. He suggested that officials of the two organizations might meet to discuss the matter. Successive meetings were held at Washington, D.C., with a view to establishing a frame of reference for co-operation. It was agreed there that the specific details, procedures and mechanisms for co-ordination would be determined at working meetings in Nicaragua. Such meetings have been taking place weekly since the Mission was established on 25 August.

7. The Mission has planned its functions in three stages. In the first stage (25 August-3 December 1989), which coincides with the stage of organization and mobilization of political parties envisaged in Nicaragua's electoral timetable, the Mission consists of 17 substantive international officials who, although mainly selected from among Secretariat staff, include three externally recruited advisers specialized in different aspects of electoral processes. The Mission also has the support of a distinguished group of international electoral experts who will visit Nicaragua at key periods in the electoral process. During the first stage, the Mission is based at Managua in order to establish and pursue contacts with the Supreme Electoral Council, political parties and other entities involved in the electoral process. Since it has an efficient transport and communications system, the Mission's regional observers travel constantly both to regional capitals and to municipalities in each of the electoral regions to maintain contact with regional electoral councils and regional politicians and to familiarize themselves with the situation in individual regions.

8. The second stage (4 December 1989-20 February 1990) corresponds to the electoral campaign proper. The staff will be joined by an additional 22 officials so that permanent offices can be set up in electoral regions and the Managua headquarters can be reinforced.

9. The third stage covers the last five days of the electoral process and will centre on intensive observation of the elections themselves on 25 February 1990. Accordingly, there are plans to strengthen the Mission at this stage with some 120 international observers from the Secretariat, from programmes of the United Nations system in the region and, possibly, from other sources.

10. The Secretary-General will receive periodic follow-up and evaluation reports on the electoral process. Immediately after the elections, the Mission will submit to the Secretary-General, for transmittal to the General Assembly, a report evaluating the elections.

## II. THE NICARAGUAN NATIONAL DIALOGUE

### A. Reform of the electoral laws and the laws regulating the mass media

11. Pursuant to the commitments made by President Ortega at the La Paz, El Salvador, meeting, a national dialogue was resumed in the form of a series of bilateral discussions between President Ortega and opposition parties. On 29 March, a group of conservative, liberal, social democratic and social Christian parties proposed, in a letter to President Ortega, a number of changes in the electoral laws. On 6 April, 15 political parties 1/ handed over to the Secretary of the National Assembly a set of demands which not only concerned the electoral laws but also included a number of political demands for ensuring that the electoral process was free, pluralistic and fair. On 8 April, President Ortega presented to the National Assembly bills amending the electoral laws and the laws regulating the mass media. These were adopted by the National Assembly with very few changes on 18 April and 21 April respectively.

12. The most important amendments to the electoral laws concerned the composition of the Supreme Electoral Council (CSE), the use of the mass media, the formation and state funding of political parties and various aspects of electoral administration. Foreign funding was authorized, on condition that half the funds received were handed over to the political party in whose name the donation entered the country and the other half were paid into the so-called "Fund for Democracy" to help defray election costs. Nicaraguan citizens temporarily outside Nicaragua were authorized to register at consulates, but ballots would still be issued only inside Nicaragua. The new Act governing the Mass Media established the rights and duties of the media, media licencing and operating rules and a set of lesser penalties for violating the law than those previously in force. The Act gave the State exclusive rights to television broadcasting, designated the Media Department of the Ministry of the Interior to enforce the Act and established an advisory body made up of representatives of the Government, media directors, communications workers, audience representatives and representatives of the Atlantic coast.

### B. Opposition criticisms

13. Opposition parties claimed that the changes were totally inadequate and that the new Electoral Act did not fully guarantee free and fair elections. On 25 April, the so-called "Group of 15" stated publicly that the amendments "were adopted unilaterally by the Sandinista majority in the National Assembly, without taking the opposition's demands into account", referring to the fact that the Assembly had not discussed the 6 April proposals. Specifically, they complained that "under the amended electoral laws, the executive branch retains control of the Supreme Electoral Council and other electoral bodies", "neither the establishment of a national identity document nor a reliable registration process is guaranteed"; the Nicaraguan Government "has refused to fulfil its commitment to declare a general amnesty", and that the time between the 1990 elections and the inauguration of the new Government in 1991 would, in the event of an electoral victory by the opposition, result in an "abnormal and serious legal and political situation". The

opposition parties also described the Mass Media Act as "totalitarian"; they were especially critical of the Mass Media Department of the Ministry of the Interior and described the National Communications Council as "inoperative" and "completely Government-controlled".

### C. The national dialogue and the agreement reached

14. In response to these claims, the Government convened a national dialogue on 3 August in which all parties took part. Opposition parties presented a long list of demands and, after 23 hours of uninterrupted negotiations, reached a significant agreement, which was signed by all the parties concerned (three of the parties, the Marxist-Leninist Popular Action Movement, the Revolutionary Unity Movement and the Revolutionary Workers' Party signed a separate agreement). President Ortega gave a number of undertakings, including suspending recruitment for patriotic military service; ensuring that application of the Mass Media Act was overseen by the Supreme Electoral Council in matters pertaining to elections; repealing the Act on the Maintenance of Order and Public Safety; amending the Act on the Jurisdictional Duties of the Sandinista Police; and releasing certain prisoners. The political parties, with the support of the President of the Republic, agreed to propose to the Supreme Electoral Council 30 regulatory measures designed to ensure that the elections were as fair and genuine as possible. These concerned the lists of registered voters, rules for voting and the vote tally, guarantees that polling stations would not be set up in military units etc. There was also agreement that the winners in the February 1990 elections would take office on 24 April (National Assembly) and 25 April (President and Vice-President). The agreement omitted either partially or completely a number of important opposition demands. Among the most important of these demands were changes in the composition of the electoral branch, elimination of the Council of Political Parties, voting by Nicaraguans abroad, an end to the requirement that 50 per cent of foreign contributions be paid into the Fund for Democracy, authorization to operate a private television channel, and a broader general amnesty than that provided for in the agreement. On some issues, particularly those relating to the distribution of television and radio air time and state funding, the position of the various opposition parties differed and the provisions of the Electoral Act were retained. Even though the opposition did not make its signing of the agreement conditional on acceptance of these demands, it has not dropped them and in a recent letter to President Ortega on 15 September, an important sector of the opposition, the Opposition National Union (UNO), reiterated most of the demands not included in the agreement.

### III. COMPOSITION OF THE ELECTORAL AUTHORITY

#### A. The Supreme Electoral Council and Nicaraguan law

15. The Constitution of Nicaragua establishes the electoral authority as a fourth branch, independent of the executive, the legislature and the judiciary. In accordance with the amendments introduced by Act No. 56, members of the Supreme Electoral Council (CSE) are elected by the National Assembly from five lists of three candidates for full members and five such lists for alternates proposed by

the executive branch. The same Act provides that in drawing up two of these lists, the President of the Republic shall take into consideration lists submitted by legally constituted parties other than the governing party. One of these two lists of three candidates shall preferably be made up of candidates from the opposition party that obtained the largest number of votes in the most recent elections, in this case, the Conservative Democratic Party (PCD). The President of CSE is also elected by the Assembly from among the five full members. In addition to these provisions of the Act, there is the political commitment which President Ortega made in publicly announcing that one of the three members to be freely designated by the executive branch would be an "eminent person", that is to say, someone on whom there is general consensus but who does not belong to any political party.

16. With respect to the next level of the electoral authority, the nine regional councils, Act No. 56 provides that the President and first member of these regional councils shall be freely designated by CSE, while the second member shall be chosen from lists sent in by legally constituted political parties, taking into account both the results of the latest elections and political pluralism. Lastly, the Act makes similar provision for the nearly 4,400 ballot receiving boards.

17. It is clear that the electoral authority, as structured in the Constitution and in the Electoral Act, unlike the Higher Electoral Tribunal of Costa Rica, for example, is not a "technical" body but one that attempts in its composition to strike a balance between contending political forces. However, assessing this balance is no easy task in the case of Nicaragua, since a significant number of parties abstained in the 1984 elections and the parties that existed at that time were very different from the groups and parties that will be competing in the February elections.

#### B. Composition of the Supreme Electoral Council

18. The President of the Republic received lists from 13 parties of the 17 then in existence containing a total of 46 names. The Marxist-Leninist Popular Action Movement, the Revolutionary Workers' Party and the Nicaraguan Democratic Movement did not submit lists and the Sandinista National Liberation Front (FSLN) is not required to do so under the Electoral Act. On 5 June, President Ortega transmitted the five lists of three candidates for full members and the five alternates (of which two lists were made up of names submitted by opposition parties) to the National Assembly. The fifth list contained the names of people whom the Government considered eminent persons. Following a lengthy discussion, the Assembly elected Mr. Mariano Fiallos Oyanguren and Mr. Leonel Argüello Ramirez for FSLN; Mr. Aman Sandino Muñoz for PCD; Mr. Guillermo Selvo Argüello for the Independent Liberal Party (PLI); and Mr. Rodolfo Sandino Argüello as an eminent person. Neither Mr. Sandino Muñoz nor Mr. Selva had any votes cast against them and only two votes were cast against Mr. Sandino Argüello. The member elected in his capacity as an eminent person had no past record of political activities, having been a judge on the Supreme Court of Justice during the 1970s. He has had a lengthy career in legal practice and in teaching and is currently Dean of the Law School of the Central American University, a private institution with ties to the Society of Jesus.

19. UNO questions the credentials of the member designated by PCD, an opposition party which obtained 14 per cent of the vote in the 1984 elections. It does so in the context of an internal division within PCD, in which a dissident faction (which is not legally constituted as a party) joined UNO, and it alleges that those who retained legal representation of the party are exchanging favours with the government party. It also, although with some ambiguity, suggests that the "eminent person" who was elected sympathizes with FSLN. Under the circumstances, the opposition maintains, the breakdown is not two representatives from the Government, two from the opposition and one "eminent person", as intended, but rather an unequal four to one in favour of the governing party. Nor was the opposition pleased to see the post of President of the Council not given to the "eminent person" but to a member from the FSLN list, Mr. Mariano Fiallos, who was President of the Council during the previous period. It is worth pointing out that the office of the President of CSE is essentially administrative, since all electoral decisions of substance are taken by the Council in plenary. The President acts as just another member and is as much bound by the collective will of the body of which he is a member as are his colleagues. Only when there is a tied vote can he settle the matter, since the law gives him the casting vote in such cases. However, so far this has not happened and this power has not been used.

C. Composition of the remaining organs of the electoral authority

20. The critical attitude of the parties that are members of UNO was reflected in their decision not to present any candidates for the second member of the regional electoral councils. That decision was not shared by a number of opposition parties which are not members of UNO, nor by a limited number of parties members of the coalition. All of them presented candidates in the proper manner.

21. On the basis of these lists and of names proposed by all the members of CSE, 27 full members (three from each of the nine regions) and their 27 alternates were elected. Of the nine second full members and their nine alternates taken from the lists submitted by political parties, six were from the Conservative Democratic Party of Nicaragua (PCDN); five from the Social Christian Party; two from the Social Conservatism Party (PSOC); two from the Popular Social Christian Party (PPSC); two from the Unionist Central American Party and one from the Liberal National Unity Party (PLIUN). It is important to point out that in the voting which took place in the Council, 53 of the 54 candidates were elected unanimously.

22. As a party to the negotiations that took place during the national dialogue concerning the composition of the electoral branch, the opposition requested that an "advisory body made up of seven members chosen on a pluralist basis" should be established; that request was granted. The purpose of the request, according to UNO, was to "counterbalance the imbalance in the composition of CSE". To that end, CSE established the requested body, appointing as its members three representatives from parties belonging to UNO, three representatives from other opposition parties (PCDN, PSC and PLIUN) and one from FSLN. Of the alternates, two belong to UNO, four to other opposition parties and one to FSLN. Operating on the assumption that the opposition parties that are not members of UNO are close to FSLN, UNO questioned this composition, alleging that it was biased in favour of FSLN and refused to let its designated members take office.



23. Another aspect on which agreement was reached during the national dialogue was the commitment by political parties to send lists of candidates for the second member of ballot receiving boards who, according to the provisions of the Electoral Act (article 26), must be designated at the proposal of political parties. Although UNO is still calling for the composition of the electoral branch to be changed, it has fulfilled that commitment, as have the other opposition parties. The number of second members designated at the proposal of opposition parties and their breakdown according to party and region will be dealt with in detail in the next report when the preparation of the electoral rolls is analysed.

#### D. Activities of the Council

24. Given the various questions raised concerning the composition of CSE, it would seem appropriate to determine whether in fact this supreme organ of the electoral authority has in its actions shown bias or favouritism towards the governing party. To that end, members of the Mission have analysed the decision - called "agreements" - adopted by the Council in the time between its first meeting as currently constituted, held on 8 June 1989, and the meeting that took place on 7 September 1989 (the latest date for which minutes were available), that is to say a total of 103 "agreements" confirmed at 13 meetings. Not all these agreements are relevant for assessing the Council's actions, since many relate to issues that have to do with its internal functioning and others are decisions that, although they relate to electoral administration, are not significant for these purposes. However, it is worth mentioning the decisions on such important issues as approval of the code of electoral ethics, the regulations for registering Nicaraguan citizens abroad and the regulations for handling donations sent from abroad to political parties or popular petition associations, the establishment of the electoral timetable and resolutions on the composition of the lower electoral organs - regional electoral councils and ballot receiving boards - and of the advisory body established as a result of the 4 August political agreement.

25. Analysis of all these resolutions does not reveal bias towards the governing party. On the contrary, the decisions referred to show the Council as open-minded and flexible and its decisions seem rather to benefit the opposition parties. It is worth mentioning those decisions which, in response to requests from some of those parties, extended more than once the deadline for the submission of lists of candidates for membership in the lower electoral organs in those cases where the law provides for the involvement of political groups; this would suggest concern on the part of the Council to ensure that opposition parties are represented in the regional electoral councils. At the same time, it is worth pointing out that while the law does not prohibit the party in power from also proposing candidates for these posts (under article 17 of the Electoral Act) and, according to the minutes examined, FSLN sent the relevant lists, the Council designated "second members" exclusively from the opposition lists. It also extended the deadline for presenting proposals for members of the advisory body and decided to accept until 20 September, and then 23 September, proposals for "second members" of ballot receiving boards and regional electoral councils (the original deadline had been 9 September).

26. It is also worth drawing attention to the Council's interpretation of article 124 of the Electoral Act, which allows parties to receive donations from abroad, on condition that 50 per cent of their value be retained for the Supreme Electoral Council. In the discussion that preceded approval of the corresponding regulations, it is specifically stated that "the Act must be interpreted in the manner most favourable to the political parties" and that it must be interpreted "flexibly". The Council made a distinction - which the Act does not - between donations consisting of cash, capital goods or propaganda materials, stipulating that the latter are not subject to the requirement that 50 per cent of their value should go to the common fund created for the Council's use and envisaging the possibility that capital goods of indefinite duration might be exempted from that requirement, provided that their value does not exceed \$20,000 and that it is the first time that the recipient has received a contribution of that kind. When one considers that such donations are likely to benefit primarily the opposition parties, it is clear that the Council, in its actions with regard to regulations under the Act, cannot be accused of bias in favour of the governing party.

27. Moreover, the decisions were nearly all adopted unanimously and there were very few on which dissenting voices were heard. The main dissent occurred in the voting on the composition of the advisory body, when the representative of PLI (UNO) called for greater participation in that body by parties belonging to UNO. He proposed that four of the seven members should come from UNO parties. Despite the symbolic importance attached to it, the issue has very little impact on the electoral process since that body is purely a consultative one.

#### IV. ORGANIZATION OF POLITICAL PARTIES AND COALITIONS

##### A. Procedures for forming political parties

28. The Electoral Act in force establishes the Council of Political Parties (CPP), assisted by the Assembly of Political Parties, as the first body to take part in the process of forming political parties. The Assembly is made up of one representative of each of the political parties recognized as legal entities and by one member who presides, elected by the Assembly from lists of three candidates sent by the President. The Council of Political Parties is made up of 10 members as follows: the President of the Assembly of Political Parties (who is also the President of the Council), four members elected by the Assembly of Political Parties, including its Vice-President, and five members elected by the National Assembly, including its Secretary.

29. The requirements for the formation of political parties under the Electoral Act are not easy to comply with, namely: a nine-member national committee and seven-member committees in each electoral region; five members in each of the 17 departments; and five members in each of the more than 140 municipalities. That means mobilizing over 800 members in leadership positions throughout the territory of Nicaragua. On the eve of the initiation of the electoral process, many of the potential political parties were not in a position to fulfil the legal requirements.

30. In view of the difficulty of complying with these requirements and the number of applications from the parties (mainly from those which later merged to form UNO), these rules were temporarily relaxed. Article 217 of the transitional provisions of the Electoral Act provided that within seven days after the Act came into force, political groups could re-apply to the Council, a substantial softening of the requirements. The requirements relating to organizational structure were reduced to submission of the names of the members of the national committee and those of at least nine department committees - a total of 54 individuals. The Council of Political Parties, for its part, was to make a final ruling on applications within 15 days. That meant that the process of establishing that a party was legal could be completed in a little over 20 days. Under the Act, groups that have been denied legal status can appeal to the Supreme Electoral Council, the highest electoral body in the land.

B. The establishment of parties during the transition period

31. During the period of relaxation of the Electoral Act, the Council of Political Parties received applications for legal status from nine political groups: the Revolutionary Unity Movement (MUR); the Central American Integration Party (PIAC); the Liberal National Unity Party (PLIUN); the Authentic Liberal Party (PALI); the Conservative Popular Alliance Party (PAPC); the Social Conservatism Party (PSOC); the National Conservative Union (PUNC); the Social Christian Unity Party (PUSC); and the Christian Democratic Party (PDC). Of the nine applications for legal status processed by the Council of Political Parties, five were rejected. The reasons most often given were similarity of names, slogans, emblems and colours. In one case, that of PIAC, the party was also charged with legal irregularities. The application submitted by the National Conservative Union was rejected owing to opposition from conservative parties (which questioned the use of the word "Union" because it failed to acknowledge existing divisions within the conservative movement) and on grounds of article V of the Constitution, which guarantees political pluralism "without ideological restrictions save on those ideologies advocating a return to the past or seeking to establish a political system similar to that of the past". The rejection of these five applications by the Council of Political Parties was appealed to the Supreme Electoral Council and in four out of the five cases CSE overturned the decision of CPP and granted legal status to the applicants. Only in the case of the Central American Integration Party (PIAC) did CSE sustain the rejection. In the other cases, adjustments were made in the emblems and names (the Authentic Liberal Party became the Neo-Liberal Party, but kept its acronym, PALI; the National Conservative Union became the National Conservative Party; the Social Christian Unity Party became the National Action Party; the Christian Democratic Party (PDC) became the National Confidence Democratic Party (PDCN); and the Conservative Party of Nicaragua became the Conservative Popular Alliance.

32. The fact that CSE overturned the decisions of CPP may be an indication of greater flexibility both on the part of CSE and of the political groups; realizing that CSE is the last court of appeal, they are readier to negotiate. CPP is a body composed of representatives of the parties and questions have been raised about it by UNO, the opposition umbrella party, which has called for its dissolution. As a

matter of fact, it can be argued that not only are few opposition parties represented in it, but CPP, by its structure, is open to charges of conflict of interest because it is left free to decide matters that are crucial to the political parties, thus inevitably interfering in their internal affairs. It is clear that if the CPP decisions had not been revoked by CSE, there would have been significant problems in the process of organizing political parties.

#### C. Popular petition associations

33. The Electoral Act also allows Nicaraguan citizens to present candidates by popular petition for election to the regional councils of the Atlantic coast autonomous regions and to municipal councils throughout the country. The process may be started with a petition signed by 1 per cent of those registered on the electoral rolls for the last election and supported by at least 10 per cent of the registered voters in each district in which the candidate wants to stand for election. The opportunity for popular petition associations to present candidates is especially important in the Atlantic regions, where political representation by parties is subject to certain limitations. As of the date of the present report, one application had been submitted in the North Atlantic Autonomous Region, by the Coastal Union. The closing date for applications has been extended to the end of November.

#### D. Present structure of the political party system

34. In practice, relaxation of the Act has resulted in considerable fragmentation of the party system. The 12 parties that existed prior to the Act were supplemented by 8 parties constituted during the period of relaxation of the present Electoral Act and one party was reconstituted, so that there are now 21 parties in all. However, this is clearly not a consolidated party system and there may be significant changes in this direction by the next elections. In this connection, it should be noted that the Electoral Act provides (article 52.9) that one of the rights of political parties is to form coalitions. In order to compete in the next elections, 12 opposition political parties (see complete list in annex II) decided to form the Opposition National Union (UNO), which officially registered with CSE as an umbrella party on 8 September.

35. The deadline for registering candidates for president, vice-president and members of the National Assembly was 29 September. Nine parties and one coalition registered candidates for president and vice-president (the names of the parties and their candidates are given in annex II) and presented lists of candidates for the Assembly.

#### V. BEGINNING OF POLITICAL AND ELECTORAL ACTIVITY

36. Even though the election campaign does not officially begin until 4 December, the mobilization of political parties and campaigning started in earnest in mid-September. Since this report covers only a small portion of the mobilization

period, comments are confined to the main problems encountered. An account is also given of the conflicting views of the parties involved. A more detailed analysis and an assessment of the basic trends will be included in later reports.

A. Disagreement regarding the mobilization of reservists

37. The main differences of opinion have arisen in connection with the interpretation of the agreement reached during the national dialogue, which provides for "a recruitment rescheduling for patriotic military service in such a way as to guarantee that no recruitment will take place in the period between September 1989 and February 1990". While suspension of recruitment for active military service has been arranged, a number of persons were mobilized in September for reservist military service. That was denounced by UNO and certain other opposition parties as a breach of the commitment undertaken during the dialogue. It has also been alleged that mobilization is being used for purposes of intimidation. (Lastly, it should be pointed out that certain opposition parties have also made specific complaints about persons being recruited for active military service.) For its part, the Ministry of Defence denies the charges and points out that the question of reservist military service was never covered by the agreement emanating from the national dialogue.

38. The root cause of these conflicting interpretations is the unfortunate wording of the agreement. The Law establishing patriotic military service, to which the signed text refers, defines two clearly differentiated forms of service: active military service, involving the recruitment of persons between the ages of 17 and 25 for two years of compulsory service; and reservist military service, involving the mobilization of persons between the ages of 25 and 40 for shorter periods. The reservists include the following: volunteers (50 to 60 per cent are volunteers, the so-called "historic reservists"); persons who have completed active military service; persons considered unfit for active military service in normal circumstances, but who might be mobilized in wartime; and even persons who, for whatever reason, were not registered for active military service, but whose age makes them eligible for reservist military service.

39. According to the interpretation offered by the Ministry of Defence, the use of the term "recruitment" inevitably implies that only active military service is covered, since reservists are enrolled or mobilized; the incorrect use of the term "patriotic military service" stems from the fact that since such service involves larger numbers, the term is confused in non-technical language with "active military service". In support of its arguments, the Ministry of Defence points out that communiqué No. 9, which was issued long before the conclusion of the dialogue, uses the correct terms when it states that "recruitment for active military service ... has been rescheduled so as to ensure that there is no recruitment for active military service during the months of the forthcoming election campaign". The Ministry goes on to state that the question of suspending mobilization of reservists could never have been under discussion, since suspension would seriously impair the army's defence capability. It also notes that developments such as the recent events at Chontales, which resulted in the death of six persons performing reservist military service, demonstrated that the possibility of hostilities was

definitely not to be ruled out. As to the intimidating effect of mobilization, it has been pointed out that mobilization is not on an individual basis, but applies to complete units or sub-units (companies, platoons) of reservists. The procedure is to assign a mobilization point for battalions or smaller units to each military district, the numbers being made up through the mobilization of companies or platoons from various parts of the district. That makes any discrimination in the mobilization process more difficult. It is important to point out that the FSLN representatives at the talks held behind closed doors during the national dialogue indicate that non-inclusion of reservist military service was clearly mentioned during the talks.

40. UNO and certain opposition parties counter with the argument that the distinction is legalistic and that, in spirit, the talks clearly covered all kinds of participation in patriotic military service. The fact of the matter is that at no time did the discussion focus, at least in public, on the exclusion of reservist military service; nor did the advocates of such exclusion include the question in their original lists of requests. Since, however, those lists contained much more radical demands (e.g., demobilization of all participants in patriotic military service), it is safe to assume that if there had been a clear distinction between the two components of patriotic military service, the opposition parties making such demands would also have called for the suspension of enrolment for reservist military service. Perhaps that would not have been accepted by the Government, but at least it would have been in evidence as a legitimate point of contention. Given the consequences of the infelicitous wording, it is regrettable that none of the parties, at any time during the national dialogue, noticed or explained the lack of precision on such a sensitive matter, especially when one considers that preliminary versions of the agreement, with the same wording, were circulated several hours before the final signing.

41. The Supreme Electoral Council's position on the items discussed is clear. Suspension of patriotic military service, however interpreted, is a matter for political agreement beyond its jurisdiction. Such being the case, it cannot intervene, not even on the basis of some future legal interpretation of the agreement. It may intervene only in so far as the form of mobilization affects the electoral process (mobilization of poll-watchers, members of ballot receiving boards, party leaders, and the like; use of reservist military service for purposes of intimidation). With respect to such cases, the Ministry of Defence decided on 12 October that "for national, regional and municipal leaders registered with the Council of Political Parties and the Supreme Electoral Council, for poll-watchers on ballot receiving boards who are already registered with the electoral bodies, and for members of ballot receiving boards, the call-up date for reservist military service shall be deferred until 1 March 1990". It is hoped that a sufficient degree of openness in the mobilization process and the establishment of operational mechanisms between the Supreme Electoral Council and the Ministry of Defence aimed at preventing the enrolment for reservist military service of leaders and activists of the political parties envisaged in the aforementioned decision of the Ministry of Defence will contribute to the proper conduct of the electoral process.

42. Since mobilization is not on an individual basis, and in the light of the aforementioned decision of the Ministry of Defence, the impact of that question, in

strictly electoral terms, is likely to be marginal. Even so, it might not coincide with the perceptions of many segments of the opposition, and given the polarization and mistrust in Nicaraguan politics, mobilization of reservists might continue to be a controversial question.

#### B. Holding of public events

43. The Electoral Act lays down various conditions for the holding of public events before and during the election campaign. For those scheduled for the period between 25 April and 24 August 1989, authorization was required from the competent authorities (the Ministry of the Interior). For those scheduled for the period after 4 December, during the election campaign proper, the authorization of the Supreme Electoral Council is required. The Act is rather vague as to the procedure during the intervening period, when authorization is not required, the only obligations being to give notice and pay a deposit - a situation that could cause dangerous scheduling conflicts between events planned for the same time and the same place. To deal with such an eventuality, the Council, in approving the Code of Electoral Ethics, assumed responsibility for authorizing events and holding deposits. During the reporting period, a significant number of public events were organized by the various parties. Only in very few cases was authorization requested from or notice given to any authority. Nevertheless, just one incident (without major repercussions) has been reported - at Sébaco, during an event organized by the Social Christian Party.

#### C. Use of the media

44. The agreement reached during the national dialogue includes certain points relating to the use of the media. The first point has to do with the media watch-dog role of the Supreme Electoral Council during the electoral process, in areas within its competence. That role has been placed on a legal and official footing through an amendment to the Mass Media Act approved by the Assembly. Action is pending on the second point, concerning the fixing of the rates for air time on radio and television that will be in effect during the election campaign, since the starting-date of the campaign is still far off. The final point has to do with confirming the provisions of article 218, paragraph 2.1.2, of the Electoral Act, and working out the specifics. Under those provisions, half an hour of continuous air time for information purposes is to be allotted on Channel 2 of the Sandinista television system to political parties or alliances, free of charge, from Monday to Saturday of every week between 25 August and 2 December 1989. Implementation of those provisions began on schedule, and the half-hour is divided into three 10-minute segments every day and allotted to parties drawn by lot.

45. Inasmuch as the parties have not yet begun full use of radio and television in the election campaign, there have been few problems in this area. The main complaint by the opposition parties is that Channel 2 has a weak signal, at least in relation to Channel 6, the other official television station. The management of the Sandinista television system contends that it was never stated during the dialogue or in the signed agreements that Channel 2 coverage would be similar to or

better than that provided by Channel 6. That would be impossible, because Channel 2 has a 5-kilowatt transmission capability, less than Channel 6. Therefore Channel 2 is able to give adequate coverage only to the major cities on the Pacific coast and, on a sporadic basis, to cities in the centre of the country. Its signal cannot reach cities in the north. As far as the south is concerned, the problems are due to interference from Costa Rica's Channel 2, which is much more powerful. The second constant complaint by opposition parties is that the governing party uses Channel 6 for propaganda.

46. The use of radio and television for political propaganda began too recently for any in-depth discussion of the question to be possible at this stage. That will have to wait for a later report, which will include an analysis of access to the media by the State, political parties, interest groups and others respectively, together with a careful assessment of the use of the media. By then clear trends will have emerged.

#### D. Activity in the interior

47. Political activity in the interior got under way recently, and the Mission has received complaints from various regions and departments about actions affecting the freedom of political parties and groups to mobilize. Such complaints are so few that it is not feasible to discuss them in this first report. As in the previous case, a later report will contain a detailed analysis of complaints and allegations; it will also contain an assessment of the situation in the regions.

#### E. Voter registration

48. Pursuant to the agreement reached during the national dialogue, voter registration was postponed until 1, 8, 15 and 22 October. The first Sunday of October was the first day of registration. That called for a massive effort on the part of electoral bodies and political parties, which had to mobilize three members of ballot receiving boards, three clerks, two election guards, poll-watchers from the political parties, and in many cases their alternates, for each of the 4,400 stations in operation that day. The next report will contain a detailed analysis of the voter registration process.

### VI. CONCLUSIONS

49. The present report covers the period between 5 July, the date of the exchange of letters between the Government of Nicaragua and the Secretary-General of the United Nations by which the Mission was established, and the end of September. During that period, all levels of the electoral authority were put in place, and the main stages in the organization of parties and coalitions were completed.

50. With regard to the composition of the electoral authority, and despite the fact that the make-up of certain electoral bodies may not entirely meet the opposition's expectations or demands, the fact of the matter is that an objective



analysis of the specific decisions adopted by the Supreme Electoral Council reveals that to date no undue benefits have accrued to FSLN. There is no reason to infer that partiality has been shown towards that party; rather, there is appreciable concern on the part of members of the Council to ensure the broadest possible participation by political groups and citizens in the electoral process and to take a broad-based and flexible approach against the background of a receptive general attitude. Since, however, the question of the impartiality of the electoral authority is central to the electoral process, the Mission will continue to monitor, on a permanent basis, any decisions adopted.

51. The process of organizing political parties and coalitions cannot be considered to have been completed altogether, because candidates still have to be nominated for the municipal councils and the regional councils of the autonomous regions of the Atlantic coast. But the most important phase, the acquisition of legal status by a number of parties (a controversial issue in the past), has reached a satisfactory conclusion. There have been no problems with regard to the formation of coalitions or the registration of candidates for the executive and legislative branches. The only significant complaint on the part of certain opposition parties is about the composition and the aforementioned decisions of the Council of Political Parties, decisions that were later rescinded by the Supreme Electoral Council.

52. The parties began political and electoral activity at an early stage, and already there have been certain differences of opinion concerning the mobilization of political parties and campaigning, items that come under the Mission's terms of reference. Perhaps the most sensitive issue has to do with mobilization for reservist military service. On this and on other matters referred to in the report, the sole aim has been to outline the main aspects of the disagreement and the positions of the parties, inasmuch as the items are still under discussion. As suggested in the text, some of them will be dealt with in later reports.

#### Notes

1/ Annex I contains additional information on the names of the parties and/or personalities who signed the various demands, as well as on recent developments in the system of political parties up to the moment when parties presented their candidates.

ANNEX I

Evolution of the positions of the political parties

	Signed letter of 29 March (para. 11)	Signed letter of 6 April (para. 11)	Signed statement of 25 April (para. 13)	Member of UNO as at 10 October (para. 34)
<u>Parties legally constituted as at 10 October 1989</u>				
Sandinista National Liberation Front (FSLN)	No	No	No	No
Marxist-Leninist Popular Action Movement (MAP-ML)	No	No	No	No
Nicaraguan Democratic Movement Party (MDN) <u>a/</u>	Yes	No	Yes	Yes
Revolutionary Unity Movement (MUR) <u>a/</u>	No	No	No	No
National Action Party (PAN) <u>a/</u>	**	**	Yes	Yes
Conservative Popular Alliance Party (PAPC) <u>a/</u>	Yes	Yes	Yes	Yes
Communist Party of Nicaragua (PCN)	No	Yes	Yes	Yes
Conservative Democratic Party of Nicaragua (PCDN)	Yes	Yes	No	No
National Confidence Democratic Party (PDCN) <u>a/</u>	**	**	Yes	Yes
Liberal Constitutionalist Party (PLC)	Yes	Yes	Yes	Yes
Independent Liberal Party (PLI)	Yes	Yes	Yes	Yes
Liberal National Unity Party (PLIUN) <u>a/</u>	Yes	Yes	No	No
National Conservative Party (PNC) <u>a/</u>	**	Yes	Yes	Yes
Neo-Liberal Party (PALI) <u>a/</u>	**	Yes	Yes	Yes
Popular Social Christian Party (PPSC)	Yes	Yes	No	No <u>c/</u>
Revolutionary Workers' Party (PRT)	No	No	No	No
Social Conservatism Party (PSOC) <u>a/</u>	Yes	No	No	No
Nicaraguan Social Christian Party (PSC)	Yes	Yes	Yes	No
Social Democrat Party (PSD)	Yes	Yes	Yes	Yes
Nicaraguan Socialist Party (PSN)	No	Yes	Yes	Yes
Unionist Central American Party (PUCA)	No	Yes	No	No
<u>Political groups without legal status as at 10 October</u>				
National Conservative Action (ANC)	<u>b/</u>	<u>b/</u>	Yes	Yes
Central American Integration Party (PIAC)	<u>b/</u>	<u>b/</u>	Yes	Yes

a/ Parties which were without legal status as at 25 April and acquired it subsequently. "Yes" indicates that the document was signed by their present national leaders.

b/ The party did not have legal status at that time, and its leaders were not among the signatories. However, it may be assumed that it agreed with the content of the letter.

c/ Original member of UNO which later left in order to support PSC candidates.

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ANNEX II

Presidential candidates

Sandinista National Liberation Front (FSLN)	Mr. Daniel Ortega Saavedra Mr. Sergio Ramírez
Marxist-Leninist Popular Action Movement (MAP-ML)	Mr. Isidro Tellez Mr. Carlos Cuadra Cuadra
Revolutionary Unity Movement (MUR)	Dr. Moisés Hassan Mr. Francisco Samper
Conservative Democratic Party of Nicaragua (PCDN)	Dr. Eduardo Molina Mr. Hugo Torrez Cruz
Liberal National Unity Party (PLIUN)	Dr. Rodolfo Robelo Mr. Lombardo Martínez
Revolutionary Workers' Party (PRT)	Mr. Bonifacio Miranda Mr. Juan Carlos Leytón
Nicaraguan Social Christian Party (PSC)	Mr. Erick Ramírez Dr. Rina Taboada
Popular Social Christian Party (PPSC) - original UNO member - supports PSC candidates.	
Social Conservatism Party (PSOC)	Dr. Fernando Aguero Rocha Mr. William Estrada Vélez
Central American Unionist Party (PUCA)	Mrs. Blanca Rojas Mr. Daniel Urcuyo
Opposition National Union (UNO)	Mrs. Violeta Barrios de Chamorro Dr. Virgilio Godoy

The members of UNO are:

- National Conservative Party (PNC)
- Conservative Popular Alliance Party (PAPC)
- National Confidence Democratic Party (PDC)
- Independent Liberal Party (PLI)
- Liberal Constitutionalist Party (PLC)
- Neo-Liberal Party (PALI)
- Nicaraguan Socialist Party (PSN)
- Communist Party of Nicaragua (PCN)
- Social Democrat Party (PSD)
- National Action Party (PAN)
- Nicaraguan Democratic Movement (MDN)