



## General Assembly

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PROVIS IONAL VERBATIM RECORD OF THE SEVENTY-SEVENTH MEETING

Held at Headquarters, New York,  
on Thursday, 7 December 1989, at 10 a.m.

President:

Mr. GARBA

(Nigeria)

- Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua: need for immediate compliance [26]
  - (a) Report of the Secretary-General
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- Question of peace, stability and co-operation in South-East Asia [41]
- Declaration of the Assembly of heads of State and Government of the Organization of African Unity on the aerial and naval military attack against the Socialist People's Libyan Arab Jamahiriya by the present United States Administration in April 1986 [42]
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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 26

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/44/760)
- (b) DRAFT RESOLUTION (A/44/L.52)

The PRESIDENT: I call on the representative of Nicaragua, who wishes to introduce the draft resolution.

Mr. SERRANO CALDERA (Nicaragua) (interpretation from Spanish): Since the last session of the General Assembly, when resolution 43/11 was adopted on the item now before us, a number of significant documents have been signed by the Central American Presidents which support the urgent call by the United Nations for compliance with the Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua. One of these documents is the Joint Declaration signed by the five Central American Presidents on 14 February 1989 in Costa del Sol, Republic of El Salvador. It states:

"The Central American Presidents firmly reiterated the request contained in point 5 of the Esquipulas II Agreement that Governments of the region and Governments from outside the region which are providing either overt or covert aid to irregular forces or insurrectionist movements [in the region] should immediately terminate such aid, with the exception of humanitarian assistance which furthers the purposes of this document". (A/44/140, p. 3)

On that occasion the Central American Presidents also undertook

"to draw up, within a period not exceeding 90 days, a joint plan for the voluntary demobilization, repatriation or relocation in Nicaragua or third countries of members of the Nicaraguan resistance and their families". (*ibid.*)

(Mr. Serrano Caldera, Nicaragua)

That joint plan was approved by the Presidents on 5, 6 and 7 August 1989 at the meeting held in Tela, Honduras. The plan was adopted

"for the purpose of advancing toward achievement of the objectives of the Central American peace process and as a firm example of their decisive commitment to the full strength of the principles of international law".

(A/44/451, p. 6)

At the same time, the five Central American Governments reaffirmed

"their commitment to halt the use of their own territory by persons, organizations or groups to destabilize other States, and to cease all types of aid to armed groups, with the exception of humanitarian aid that serves the purposes that the Presidents have defined for this Plan". (ibid., p. 7)

The Plan also provided for the establishment of the International Support and Verification Commission (CIAV), which the Secretary-General of the United Nations and the Secretary-General of the Organization of American States were asked to form. This Commission was to be

"responsible for all activities that make possible voluntary demobilization, repatriation or relocation". (ibid.)

Among other things, it was also to organize the "distribution of humanitarian aid" (ibid.).

What the Central American Presidents have been saying since the Esquipulas II Agreement is a key element in solving the crisis in the region and further proof of what the International Court of Justice said in its historic Judgment of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua. The Court decided that

(Mr. Serrano Caldera, Nicaragua)

"the United States of America, by training, arming, equipping, financing and supplying the [counter-revolutionary] forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another State". (S/18221, annex, p. 137)

(Mr. Serrano Caldera, Nicaragua)

The Court decided also that

"The United States is under duty immediately to cease and to refrain from all such acts as may constitute breaches of [its] legal obligations."

(ibid., p. 140)

This statement could not be clearer, and this Assembly has repeatedly appealed to the Government of the United States to comply immediately and fully with the Judgment of the Court. That Government has disregarded all these appeals and, in outright defiance, has continued to fund and support the mercenary forces established in Honduras, whose aim continues to be the overthrow of the legitimate Government of Nicaragua.

In March this year the Republican and Democratic Parties of the United States reached agreement on new levels and types of assistance to the counter-revolutionary forces. It was specified that the assistance was to be strictly humanitarian in nature, and, according to the interpretation of the Government of that country, it is not incompatible with the agreements reached by the Central American Presidents. However, I want to underscore the fact that the purpose of the assistance is not the demobilization, repatriation or relocation, in third countries, of the Contra forces and the members of their families; on the contrary, its ultimate goal is the maintenance of those forces intact until after the elections in Nicaragua. At that time, the Government of the United States, claiming powers that no one has conferred on it, would judge the legitimacy of the elections, which is tantamount to judging whether its war of aggression against Nicaragua could be continued.

Although the counter-revolution assistance arising from this bipartisan agreement is characterized as being humanitarian, it is, in fact, logistical. Its real purpose is to keep the counter-revolutionary forces intact, in flagrant

(Mr. Serrano Caldera, Nicaragua)

contravention of the agreement of the Central American Presidents, which speaks of demobilization and disbandment. If this assistance were truly humanitarian it would be administered by the International Support and Verification Commission, in conformity with the provisions of the agreement - in other words, in response to the purpose of demobilization, repatriation or relocation of the mercenary forces.

In violation of what was affirmed by the Judgment, and disregarding that Judgment, the United States has continued its interference in the internal affairs of Nicaragua. In October 1989 the United States Congress voted in favour of granting the sum of \$9 million for the electoral campaign of the candidate of the Unión Nacional Opositoria (National Opposition Union) in the presidential elections to be held on 25 February 1990. That sum was additional to the \$2 million granted in October 1988 and the \$1.5 million agreed in June 1989 to assist the political parties that make up that opposition coalition.

Once again disregarding the provisions of the Judgment and in open defiance of the jurisdiction of the Court, the United States Congress, on 30 November this year, approved the continuation of logistical assistance to the counter-revolution. That support amounts to approximately \$30 million, and it is supposedly intended for the provision of uniforms, boots, campaign tents, radios, cooking utensils and foodstuffs, all of which will once again make it possible for the Contras to continue the infiltration of armed groups into Nicaragua and for those armed groups, in the process of the infiltration, to commit all kinds of crimes against the people, thereby impeding the electoral process, which is already under way. Once again the United States Administration and Congress have disregarded the agreements of the Central American Presidents, instead of demobilizing the Contras, as agreed in the Tela Agreement and as ordered by the International Court of Justice.

(Mr. Serrano Caldera, Nicaragua)

Despite the Nicaraguan Government's efforts to find a peaceful settlement of the conflict, the Government of the United States has persisted in its attitude, which is in breach of the Judgment of the International Court, and it continues to show no regard for the willingness to achieve peace that has been shown by the Central American Presidents. This attitude was particularly evident during the recent dialogue that we held with Contra leaders on the initiative of my Government. Lengthy meetings in New York, together with others in Washington and the tireless efforts of the International Support and Verification Commission, were not enough to convince the United States and its mercenaries of the fact that the only honourable way out of its failed policy is to show respect for the will of Central America, which is supported by the principles of international law, which, in turn, inspired the International Court of Justice to hand down the historic Judgment of 27 June 1986. The lack of respect that the United States is showing for the Judgment of the Court is manifested also by the renewal, twice already this year, of the trade embargo against Nicaragua. In this respect, the Court stated:

"... the United States of America ... 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., pp. 139 and 140)

Once again my delegation is submitting a draft resolution - document A/44/L.52 - to the General Assembly for its consideration. This draft resolution simply calls on the United States to comply with the Court's Judgment. We wish to thank Member States for supporting corresponding draft resolutions on earlier occasions, but we believe that it is important that this new draft too be supported by the vast majority of Members because the principles embodied in the Court's Judgment are the principles that the Central American countries are striving to

(Mr. Serrano Caldera, Nicaragua)

enforce - convinced, as they are, that they enshrine the formula for peace and for development for our peoples.



(Mr. Serrano Caldera, Nicaragua)

In his report dated 22 November 1989, the Secretary-General stated:

"Pursuant to paragraph 2 of the above resolution, the Secretary-General wishes to inform the General Assembly that there have been no new developments in the situation since the adoption of resolution 43/11. It should be pointed out that, as pointed out in its annual report, 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 the 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'. 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/44/760, para. 2)

On 29 March 1989, after the Government of the United States had disregarded repeated invitations, my Government initiated proceedings before the Court for the purpose of setting the amount of reparations that the United States Government owed as a result of the destruction and damage caused by its unlawful policy. The evidence presented in the proceedings enables us to predict that some time early next year the Court will issue a new judgment.

When we call for compliance with the 1986 Judgment of the International Court of Justice, it is clear that we do so as a country directly affected by the acts of aggression to which we have been subjected for eight years. It is also clear that we do so because we are convinced that in this conflict, in which we have been the victims of acts of aggression by the United States for almost a decade, a Judgment of the International Court of Justice is an invaluable instrument of peace and

(Mr. Serrano Caldera, Nicaragua)

points the way towards understanding of our problems on the basis of mutual respect among States. We do so also because we are aware of the importance of international law, of the Court and of the whole United Nations system as vital instruments in finding the area of agreement, however small, and the point of balance in all disputes and conflicts.

That is why we are, and will continue to be, particularly interested in any steps that strengthen international law. Because we believe in law and not in force, we initiated and encouraged, just within the Movement of Non-Aligned Countries and then in the world community of nations, the idea of declaring the Decade of International Law which should contribute to the attainment of peace and harmony among States and peoples.

We are therefore concerned when international law is violated and the decisions of the highest court of justice in the world are not respected. When this happens, when the country concerned is one of the most powerful on earth, which by virtue of its very strength and might has a special obligation to safeguard the agencies established to preserve peace, the disquiet of the international community must be even greater. It must be greater because lack of respect by the powerful profoundly damages these mechanisms, which are designed to work on the basis of observance by all and agreement on principles.

If we weaken these bodies we undermine the possibilities for more stable peace in international relations. This proves the need for identification within international law of mechanisms that will ensure that its norms and the judgments of the Court are respected, since we are finding that compliance with and respect for them, which is or should be ineluctable, is not being achieved in cases such as this in which a powerful aggressor State is in breach of norms and principles of international law and is undermining the high authority of the International Court at The Hague.

(Mr. Serrano Caldera, Nicaragua)

For these reasons, we believe that all States that form part of the United Nations system, all States that believe in the importance of international law and the International Court of Justice, have a duty to support this draft resolution without reservation. To abstain would be tantamount to weakening the very foundations of the coexistence of nations and especially those basic principles that form the base and the structure of the whole system of international relations, namely, the principles of the sovereignty of nations and the self-determination of peoples.

Mr. PICKERING (United States of America): I want to depart from my prepared text to say that it is a source of concern and sadness to my delegation that we are here today considering this draft resolution rather than all efforts to push forward with the fragile peace process in Central America. I will be brief and to the point.

The draft resolution before us regarding the International Court of Justice case of Nicaragua against the United States presents a one-sided picture that clearly ignores consistent United States support for the Esquipulas peace process, and the Nicaraguan Government's destabilizing activities in the region and repression at home - activities which it has recently redoubled with the breaking of the cease-fire, the resumption of hostilities and the continuation of clandestine military supplies to the Salvadorian insurgents.

(Mr. Pickering, United States)

The United States Government has supported the Esquipulas process since its inception. That process, achieved by agreement of the Central American presidents themselves, has several aspects which the Central American Governments have deemed essential for the restoration of stability, peace and prosperity to their region. We have supported all those elements, which include democratization, amnesty, national reconciliation and free elections as well as the cessation of lethal aid to irregular forces and insurgent movements and the non-use of territory to attack other States. These are all elements of the whole of the peace process; they are not a menu from which to pick and choose. The Esquipulas elements should be embraced, adhered to and verified in their entirety.

Nearly two years ago, my Government ceased supplying vital military support to the Nicaraguan resistance. Our continuing humanitarian assistance programme is consistent in its own terms with the Esquipulas peace agreements. In addition, our humanitarian assistance could be used to support the voluntary repatriation and relocation of the Nicaraguan resistance. Sadly, the policy of the Government of Nicaragua stands in stark contrast to United States support for the Esquipulas peace process.

The recent plane crash near El Transito, in El Salvador, revealed 24 sophisticated SA-7 surface-to-air missiles, shipped from Nicaragua, destined for the Salvadoran guerillas, weapons that might have significantly augmented the level of conflict and the cost in lives had they been used against the democratically elected government of El Salvador. This finding, along with the recent discovery in Honduras of a major arms shipment hidden in the panels of a furniture truck originating in Nicaragua and bound for the Salvadoran guerillas, again belies the position the Nicaraguans have taken before the Court and on which the Court itself relied in its ruling.

(Mr. Pickering, United States)

We believe that Nicaragua is attempting to shift the focus of international attention away from its commitment to democratization, and we urge the international community not to be deceived by these tactics. The aggressive policy of the Nicaraguan Government underscores the irrelevance of this draft resolution, which detracts from the peace process, a process the United States supports, a process significantly undermined by the continuing activity of the Sandinista Government to export subversion to the Central American region.

Nicaragua's closest neighbours and the other participants in the Central American peace process - Costa Rica, El Salvador, Guatemala and Honduras - have refused to support this draft resolution. We think it is time to remove this item from the General Assembly agenda, since repetitive resolutions on this issue do not contribute to the search for peace, democracy and justice in Central America.

The United States fully respects and supports the International Court of Justice. However, we believe that it erred when it found that it had jurisdiction to hear the case brought by Nicaragua. A vote against this draft resolution is a vote against the militarism and repression of the Sandinista government and a vote for the future, and not a vote against the Court; it is a message from the international community to the Government of Nicaragua that it should fulfil its Esquipulas commitments. For these reasons, my Government opposes this draft resolution and we encourage others to do likewise.

Mr. ROJAS (Colombia) (interpretation from Spanish): Since its forty-first session, the General Assembly has continued to recognize the urgent need for immediate compliance with the Judgment of the International Court of Justice of 27 June 1986 concerning military and paramilitary activities in and against Nicaragua. Now, as on previous occasions, we wish to reaffirm the importance of the international community's acting as guarantor of the Judgments of

(Mr. Rojas, Colombia)

the International Court of Justice in its capacity as the principal judicial body of the United Nations. This will without a doubt strengthen the hand of the Court and will help consolidate the growing climate of world détente.

At the same time, there is a need for wider recognition of the Court's binding jurisdiction, which should begin with the members of the Security Council, to whom the Charter has given, in addition to their basic function of maintaining international peace and security, the function of electing, together with the General Assembly, the members of the Court. Furthermore, under the Charter, the members of the Security Council must also, in making their recommendations on disputes which, if they continued, would be likely to imperil international peace and security, take into consideration the fact that disputes of a legal nature must, as a general rule, be submitted by the parties to the International Court of Justice.

Wider recognition of the Court's binding jurisdiction is, in and of itself, a manifestation of a readiness on the part of States to consolidate relations based on law when faced with decisions, based on doubtful interests, which leave the world devoid of a structure, of an order and, above all, of resort to an effective means of solving disputes peacefully.

The United Nations has been built on the basis of sound principles which must be taken into account at all times and must not be impugned, for upon them rest peaceful coexistence and world peace. One of these principles establishes that the Members of the Organization shall, in good faith, fulfil the obligations they have assumed under the Charter. At the same time, Article 36 of the Statute of the International Court of Justice states that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the

(Mr. Rojas, Colombia)

Court. The Judgment of 27 June 1986 must be understood in this context, in the assurance that only in this way will the rule of law offer the only alternative in future for solving disputes.

We are witnessing positive changes in international events and a growing tendency for international law to be strengthened. This is borne out by the fact that the General Assembly adopted a resolution declaring the United Nations Decade of International Law. My delegation must, however, express its frustration at the fact that, in spite of this, the community of nations finds itself obliged, for reasons of principle, to urge a party to comply with a decision of the International Court of Justice. Similarly, we believe that non-compliance with a judgement, any judgement, not only entails a refusal to restore respect for the law, but also promotes the belief that the body which handed down the judgement did not have the authority to impose it. In either case, the result is a matter of concern for the international community.

Colombia, as a country which has accepted the jurisdiction of the Court, wishes to point out that the results to which such a situation may give rise have negative implications for the future, which means that the situation must be considered in good time. We reaffirm our faithful adherence to, and respect for, the principles and norms of international law, and we therefore express our support for draft resolution A/44/L.52, which is now before us.

Mr. ZACHMANN (German Democratic Republic): At the outset I wish, in my capacity as current Chairman of the Group of Eastern European States, to express our support for the draft resolution before us.

Already one year ago the overwhelming majority of the Organization's Member States voted in favour of a similar resolution calling 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". The International Court of Justice, in its Judgment, confirmed what had become obvious a long time before to international public opinion.

The Judgment and the comprehensive investigation that preceded it are clear proof of the illegal policy in respect of Nicaragua. The financing, training, arming and support granted to counter-revolutionary mercenaries, the mining of ports and the continuing encroachment upon the country's sovereignty over its territory and air space are, as the Judgment by the International Court of Justice notes, a gross violation of international law. The principal judicial organ of the United Nations also stated that attempts to label such actions against Nicaragua and its legitimate Government "collective self-defence" were completely unfounded.

The Judgment of the Court is of fundamental importance. It reaffirms the basic principles of international law governing State-to-State relations, such as the principles of sovereign equality, non-interference in internal affairs, renunciation of the threat or use of force in international relations and the peaceful settlement of disputes. It also reaffirms the primacy of the rule of law in international politics.

If peace and security are to be maintained and made lasting for present and succeeding generations, as the Charter calls upon all Member States to ensure, intensified efforts by the community of States are more imperative than ever



(Mr. Zachmann, German Democratic Republic)

before. This also means that peaceful and just solutions to persisting international conflicts must be found.

In his annual report on the work of the Organization, Secretary-General Perez de Cuellar points to trends and progress in the peaceful settlement of a number of long-standing regional conflicts, including the conflict in Central America, and to the active role the United Nations has played in that regard. Over the past few months the Central American States have made many efforts to give the peace process a fresh impetus and carry it forward. We welcome the results of the recent Tela meeting of the Central American Presidents. We believe that the reaffirmation of the commitments under the Guatemala agreement, and the agreement reached on the demobilization, repatriation or relocation of the members of the Nicaraguan resistance are important steps towards the eventual removal of tensions and the creation of sound foundations for all States and peoples of the region to live together in peace.

In discharging its responsibility to achieve a durable and secure peace in the region, the Government of Nicaragua has taken a host of concrete steps and measures to implement what the five Central American Presidents agreed on in Tela. These steps and measures attest to the seriousness and determination with which those commitments are being fulfilled. In spite of the unabated armed attacks by the contra forces, Nicaragua is preparing for the holding of free and fair elections in February 1990, with international observers, including observers from the United Nations, present to verify them.

The Nicaraguan Government has taken a range of measures providing for the effective participation of all political forces nation wide in the election campaign. The constructive and flexible stance of Nicaragua notwithstanding, the peace process continues to be troublesome and beset with obstacles. Regardless of

(Mr. Zachmann, German Democratic Republic)

the Tela agreements, the process of contra demobilization is being scuttled and further delayed.

Interference in the internal affairs of Nicaragua, especially in the election campaign under way, as well as economic blackmail and political destabilization of that sovereign nation is continuing. Such acts are incompatible with the norms of international law and give rise to grave concern. When the General Assembly just recently adopted resolution 44/10, the Member States of the Organization unanimously came out in favour of general support for the peace process in Central America.

As we see it, support for the urgent call for full and immediate compliance with the Judgment of the International Court of Justice in the case of "Military and Paramilitary Activities in and against Nicaragua" is another significant step in that direction.

The Court's Judgment emphasizes the principle of the peaceful settlement of disputes in international relations. The strengthening and universal application of this basic precept of international law are a major goal of the United Nations Decade of International Law.

Mrs. SILVERA NUÑEZ (Cuba) (interpretation from Spanish): Once again the General Assembly is obliged to consider this item, which we have been discussing futilely for a number of years. Despite the large number of new situations with which it has to deal year after year, the international community must once again spend time calling for a solution to a problem which should have been solved long ago.

The United States Government, having for many years accepted the binding jurisdiction of the Court, has now become the great violator of a Judgment of that Court because that Judgment went against it.

(Mrs. Silvera Núñez, Cuba)

We should not find this surprising bearing in mind that the attitude of the United States Government demonstrates that it seems to regard détente as an ideal climate in which to assert the political, economic and military hegemony of its country. The acts of aggression of which Nicaragua is the victim, the pressure exerted on other countries to induce them to join in that aggression, and the stubborn refusal to comply with a Judgment which it should never have questioned if it had been consistent with its traditional position are all part of this picture.

(Mrs. Silvera Nunez, Cuba)

As we have stated on other occasions, the Cuban Government has not signed any declaration committing itself to the binding jurisdiction of the Court. That is not what is in question today. It is not a matter of determining whether that binding jurisdiction should be accepted; what we are discussing is whether Member States should respect and comply with international undertakings or whether they are entitled to ignore them when the Court's decision happens to be against their interests.

Our Organization is placed in a very difficult position when a Government that has voluntarily accepted the Court's binding jurisdiction abandons that position when faced with the possibility of an adverse judgement. It also makes it difficult for the Organization to play the role that it should play in today's world, which believes that relations should be based on acceptance of and respect for international law.

To overlook the United States Government's failure to respect the Judgment would be not only to condone a flagrant violation of the provisions of the Charter, but to accept that in our community of nations there is a broad aspect of international relations - that of rights - that applies to the powerful countries only, while the poorer countries have only the burden of the duties. That is contrary to the sense of equity and justice that members of the supreme international Organization should cherish.

The Movement of Non-Aligned Countries held a conference a short time ago at The Hague with the aim of strengthening the struggle for peace. The proposal recently before the Assembly concerning the declaration of a decade to establish the primacy of international law has a similar aim. The link between the two concepts is indisputable. The peace and security of all will be threatened as long as there are States that violate the norms established by the international community. If one country may violate those norms with impunity just because it is

(Mrs. Silvera Nufiez, Cuba)

powerful, our Organization cannot be considered to have true value; nor can it be said to be fulfilling the purposes for which it was created.

Those are just some of the reasons that make it particularly important that the United States comply with the Judgment of the International Court of Justice in the case of Nicaragua. The United States Government must comply with its provisions, not only because that is its obligation to the Nicaraguan people by virtue of that Judgment, but also because its compliance is a commitment to the international community as a whole.

My delegation supports the draft resolution introduced this morning.

The PRESIDENT: The Assembly will now take a decision on draft resolution

A/44/L.52.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Bahamas, Barbados, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, Ethiopia, Fiji, Finland, German Democratic Republic, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, 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, Myanmar, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Seychelles, Solomon Islands, Spain, Suriname, 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, France, Gambia, Germany, Federal Republic of, Grenada, Guatemala, Honduras, Italy, Jamaica, Japan, Jordan, Liberia, Luxembourg, Malaysia, Malta, Mauritius, Morocco, Netherlands, Oman, Portugal, Rwanda, Samoa, Senegal, Sierra Leone, Sri Lanka, Sudan, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, Yemen

Draft resolution A/44/L.52 was adopted by 91 votes to 2, with 41 abstentions (resolution 44/43).\*

The PRESIDENT: I call on the representative of Nicaragua, who wishes to speak in exercise of the right of reply.

Mr. SERRANO CALDERA (Nicaragua) (interpretation from Spanish): I should like first to thank the General Assembly for the broad support it has given the draft resolution which we have discussed and voted on this morning. We are profoundly satisfied both that it has been adopted and that the number of votes in favour has gone up as compared with such votes on similar resolutions in previous years. It is obviously gratifying to us as Nicaraguans who have called for compliance with the Judgment of the International Court of Justice, but we are also pleased in general in that there is support for the re-establishment of the basic organs set up to ensure peace and harmony between peoples and the possibility of coexistence.

I therefore wish to express our gratitude to, and recognition of, those that have supported us, including Colombia, the German Democratic Republic and Cuba, whose representatives rightly reaffirmed in their statements the need for the international community to maintain the validity of the universal principles of the

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\*Subsequently the delegations of Bhutan and Democratic Yemen advised the Secretariat that they had intended to vote in favour.

(Mr. Serrano Caldera, Nicaragua)

law, which are also universal principles of peace and a firm basis for understanding between peoples.

I had not intended to refer to the statement of the representative of the United States, but I must do so because of a number of assertions that he made. Unfortunately, his statement was completely out of order, because we are not here to discuss other subjects. He politicized his statement and evaded the basic subject of the debate, which has been endorsed by the Assembly's adoption of the resolution. Should a judgment of the International Court of Justice be complied with or not? Should a party that has accepted the Court's binding jurisdiction reject it or comply with it as it pleases? Can such important bodies as the International Court of Justice bow to the political interests of a nation or to what that nation finds expedient? Does not a great Power have an obligation to respect and strengthen the bodies and mechanisms set up for the peaceful settlement of disputes?

Those are the basic questions at issue here. When a country has spoken in support of the Court and its binding jurisdiction during the debate on the United Nations Decade of International Law, can that country refuse to comply with a judgment and say that the Court is mistaken? Can a party disregard the judgments of the world's highest tribunal?

If so, that is a very dangerous situation. These are very political matters, introducing specific ideological and political positions and short-term interests in place of what should be the permanent interests, principles and foundations on which the international community relies.

(Mr. Serrano Caldera, Nicaragua)

We should like to conclude these brief remarks by saying that we have faith in law; we have faith in international law; we have faith in the world community, in the United Nations, in dialogue and in political solutions to disputes as the only means that the community of nations should employ in keeping with the actions, interests and objectives of a civilized community concerned for peace and respect for international law.

The PRESIDENT: That concludes our consideration of agenda item 26.

#### AGENDA ITEM 41

##### QUESTION OF PEACE, STABILITY AND CO-OPERATION IN SOUTH-EAST ASIA

The PRESIDENT: Following consultations regarding this item, it is proposed that in view of recent developments the General Assembly, in pursuance of the efforts to promote peace, stability and co-operation in South-East Asia, decide to postpone the consideration of the item and to include it in the provisional agenda of its forty-fifth session.

May I take it that it is the wish of the Assembly to defer consideration of this item and to include it in the provisional agenda of the forty-fifth session?

It was so decided.

The PRESIDENT: That concludes our consideration of agenda item 41.

#### AGENDA ITEM 42

##### DECLARATION OF THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT OF THE ORGANIZATION OF AFRICAN UNITY ON THE AERIAL AND NAVAL MILITARY ATTACK AGAINST THE SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA BY THE PRESENT UNITED STATES ADMINISTRATION IN APRIL 1986

The PRESIDENT: Following consultations, it is my understanding that consideration of this item may be deferred to the forty-fifth session of the General Assembly.

May I take it that it is the wish of the Assembly to defer consideration of the item and to include it in the provisional agenda of the forty-fifth session?

It was so decided.



The PRESIDENT: That concludes our consideration of agenda item 42.

AGENDA ITEM 159

FINANCING OF THE UNITED NATIONS OBSERVER GROUP IN CENTRAL AMERICA: REPORT OF THE FIFTH COMMITTEE (A/44/847)

The PRESIDENT: If there is no proposal under rule 66 of the rules of procedure, I shall take it that the General Assembly decides not to discuss the report of the Fifth Committee that is before the Assembly today.

It was so decided.

The PRESIDENT: Statements will therefore be limited to explanations of vote.

The positions of delegations regarding the various recommendations of the Fifth Committee have been made clear in the Committee and are reflected in the relevant official records. May I remind members that under paragraph 7 of decision 34/401 the General Assembly agreed that

"When the same draft resolution is considered in a Main Committee and in plenary meeting, a delegation should, as far as possible, explain its vote only once, i.e., either in the Committee or in plenary meeting, unless that delegation's vote in plenary meeting is different from its vote in the Committee".

The Assembly will now take a decision on the draft resolution recommended by the Fifth Committee in paragraph 6 of its report (A/44/847).

The Fifth Committee adopted the draft resolution without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/44).

The PRESIDENT: We have concluded our consideration of agenda item 159.

The meeting rose at 11.25 a.m.