



# PERMANENT PEOPLES' TRIBUNAL

**NICARAGUA**  
**Brussels, 5-8 October 1984**

## **Members of the Tribunal**

FRANÇOIS RIGAUX (Belgium), President  
GEORGE WALD (USA), Vice-president  
VICTORIA ABELLAN HONRUBIA (Spain)  
GEORGES CASALIS (France)  
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SALVATORE SENESE (Italy)  
ERNEST UTRECHT (Indonesia)

## **Procedure**

### **The Permanent Peoples' Tribunal**

Having considered:

- the Charter of the United Nations of 26/6/1945;
- Law No. 10 of 20/12/1945, instituting the International Military Tribunal at Nuremberg, the Statute of the Tribunal, and the Judgement delivered by the same Tribunal;
- the Charter of the Organization of American States of 30/4/1948, amended by the Protocol of Buenos Aires of 27/2/1967;
- the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10/12/1948;
- the American Convention on Human Rights, adopted at San José, Costa Rica, on December 22/12/1969;
- the Havana Convention of 20/2/1928;
- the Rio de Janeiro Pact of 2/9/1947;
- the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adopted with Resolution No. 2131 (XX), 21/12/ 1965, by the General Assembly of the United Nations;
- the Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, adopted with Resolution No. 2625 (XXV), 24/10/1970, by the General Assembly of the United Nations;
- Resolution No. 3314 (XXIX) on the Definition of Aggression, adopted by the General Assembly of the United Nations on 14/12/1974;

Having considered:

- the Declaration of Independence of the United States of America, 4/7/1776;

Having considered:

- the judgments handed down by the Second Russell Tribunal on Latin America in sessions held in 1974, 1975, and 1976;
- the sentences handed down by the Permanent Peoples' Tribunal, most especially in sessions on:
  - Argentina (Geneva, May 3-4, 1980)

- El Salvador (Mexico, February 9-11, 1981);
- Guatemala (Madrid, January 27-31, 1983);

Having considered:

- Encyclica *Populorum Progressio* (March 26, 1967);

Having considered:

documents emanating from the conferences:

- Medellín (Colombia, August 26, 1968);
- Puebla de los Angeles (Mexico, January 27-February 13, 1979);

Having considered:

- the Universal Declaration of the Rights of the Peoples (Algiers, July 4, 1976);
- the Statute of the Permanent Peoples' Tribunal (Bologna, June 24, 1979);

Having considered:

the reports of:

- Rafael Chamorro, Dean of the Faculty of Law at the University of Managua, Nicaragua,
- Richard Falk, professor at Princeton University (United States),
- Rosa Pasos, captain in the Army of Nicaragua (EPS),
- Freddy Balzán, Executive Secretary of the Antimperialist Tribunal of Our America,
- Marlene Dixon, Director of the Institute for the Study of Militarism and Economic Crisis (United States),
- His Excellency Ernesto Cardenal, priest, writer, and Minister of Culture of Nicaragua,
- Magda Henríquez of the Sandino Foundation, Managua,
- Lilly Soto, President of the Union of Nicaraguan Journalists (UPN),
- Larry Birns, Director of the Council on Hemispheric Affairs in Washington, D.C. (United States),
- His Excellency Alejandro Serrano Caldera, Ambassador of Nicaragua to France and Permanent Delegate to UNESCO,
- Joe Verhoeven, Professor of International Law at the Catholic University of Louvain (Belgium);

Having considered:

the report of Francis Boyle, professor at the University of Illinois (United States), presenting, at the request of the Tribunal, the official position of the United States of America on Nicaragua;

Having considered:

the testimonies of the Nicaraguans, particularly the Miskitos, victims of the aggression:

- Digna Barrera,
- Brenda Rocha,
- Rev. Norman Bent,
- Rev. James Lloyd Miguel Mena,
- Orlando Wayland Waldimar,
- Tomás Alvarado,
- Ramón Sanábria,
- Mario Barreda;

Having taken into account the special texts and other documents presented to the Tribunal:

- The Commission report on the Report of the Investigation Commission in Nicaragua, designated by the Court and composed of Victoria Abellan, Leo Matarasso and Gianni Tognoni (1-8 August 1983)
- "The balance of five years of the Sandinista government - The right of a humiliated people to defend their own revolution" - from *Envío*, 4th year, n.37
- "The story of American aggressions and interventions preceding 1979"
- "The impact of aggression"
- A chronological documentation of the internal secret activities of the USA, including those against Nicaragua. The relationship of the International Court of The Hague and the order of the Hague Court.
- "The military actions of the USA in Central America" by Defense Monitor, vol.3, n.3, 1984
- "Military aggressions from 1979" Report of the Sandinista People's Army
- "The North American presence in Honduras"
- The report on the official USA theses by Prof. F. Boyle
- "Nicaragua's Military Build-up and support for Central America subversion", by the Department for Defense, USA
- "Who's who in Nicaragua's military opposition?"
- Fundamental Commitments to establish peace in Central America
- "Chronology of attempts of bilateral negotiations between Nicaragua and USA"
- "Western Europe's attitude towards Nicaragua concerning the crisis in Central America" (with Annex)
- "The economic boycott and the economic result of aggression"
- Message from Commander Daniel Ortega, Coordinator of the JGRN
- "Reagan's Central America Policy: a new Somoza for Nicaragua" of Marlene Dixon
- "The nine points of Contadora"

- “Nicaragua’s elections: voter registrations”
- “The Miskitos of the Atlantic Coast”
- “The preparations in Nicaragua for the elections taking place on the 4<sup>th</sup> of November”
- “The religious problem”
- “The International Court of Justice” of Richard Falk
- “International arms transfers to Central America since 1969” edited by the Central American Institute, June 1984
- The judicial relationships regarding the attacks
- “The ideologic offensive, of the military of the United States” edited by L. Soto, Nicaragua
- Reagan Policy Document in Latin America (Santa Fé Declaration, May 1980), CEAL Information, December 1981.

Having examined the audio-visual material and cartographic documentation made available to the Tribunal.

Considering that this request was declared admissible by the Tribunal, in accordance with Articles 4 and 12 of the Statute of the Permanent Peoples’ Tribunal, and that this decision was communicated to the government of the United States of America on the 28th of August 1984, inviting it to participate in the proceedings, in accordance with Article 15 of the Statute;

Considering that the government of the United States has failed to respond to this invitation to participate in these proceedings;

Decreases the follow judgment:

## 1. INTRODUCTION

1.The Permanent Peoples’ Tribunal functions within a juridical framework established by the Universal Declaration of the Rights of the Peoples, adopted on July 4th, 1976 in Algiers. This is the thirteenth session of the Tribunal.

The Tribunal holds proceedings primarily concerning the affirmation of the right of each people to choose freely the path of their political, economic, cultural and ideological development, without any outside interference.

The existence of the Tribunal is the result of efforts on the part of lawyers and moral authorities from all regions of the world, brought together to constitute a body capable of deciding whether the fundamental grievances of the people are justified.

2.In this present case, the Tribunal has researched whether the grievances directed against the United States government by the government of Nicaragua have a basis and foundation according to international law. To this end, both parties were invited to the present proceedings.

3.Nicaragua provided testimony and reports by experts to the Tribunal. The government of the United States failed to accept the invitation to take part in the debates. However, at the initiative of the Tribunal, an expert in international law, Professor Francis Boyle, presented a complete report, orally and in writing, tending toward the justification of all the acts of which the government of the United States has been accused.

## 2. DESTABILIZATION AND GENERAL STATE OF WAR

### *Political Interventions and Military Actions*

#### a. Military Actions

4.The victory of the Sandinista revolution over the Somoza dictatorship and the creation of a new State of Nicaragua was accompanied by the flight of a considerable number of former Somocista Guardsmen and other persons associated with the former regime. These people located themselves primarily in the United States, in Guatemala, and in Honduras, where they very quickly made efforts to organize themselves and to find support for destabilizing, if not overthrowing, the Sandinista government.

5. In the beginning, this activity was directed toward the formation of bands which lacked any political or military strategy and often any connections between them. They carried out a variety of subversive and criminal actions, particularly in the regions of Nicaragua bordering on Honduras, attacking amongst others those working in the literacy campaign.

6. These actions increased over the years and, since the end of 1981, have taken on the character of a counterrevolutionary effort which is coordinated, well provided with funds and resources, militarily equipped and with a well-defined strategy aimed at terrorizing the people, destroying the economic potential of the Nicaraguan state, and damaging the socioeconomic fabric of the country.

7. The extent of these attacks, which have continued to grow since 1981, has been documented in detail in reports presented to the Tribunal. This documentation establishes a series of aggressions. acts of sabotage, acts of terrorism, and acts of war, perpetrated by counterrevolutionary forces and their allies against the people and the State of Nicaragua.

8. From 1981 to September 1<sup>st</sup> of 1984, documentation exists for 64 cases of kidnapping, 42 abductions, 30 assassinations, 45 armed provocations, 289 infiltrations, 922 battles, 240 ambushes, 345 attacks, 98 acts of sabotage, making a total of 2,475 acts of aggression that bear witness to an incessant politics of aggression. To this record one can add numerous plans of aggression described in convincing detail before this Tribunal (the Red Christmas Plan, Plan C, Marathon Plan, the Sierra Plan).

9. We shall recall here the most striking of the many imposing facts, since the international press has reported most of them:

- Bomb attack at the airport of Mexico City that damaged an Aeronica plane and injured three members of the crew (1981);

- Bomb attack at the Augusto C. Sandino International Airport in Managua that left four dead and three injured (February 22, 1982);

- Invasion attempt by the MISURA counterrevolutionary group directed by Steadman Fagoth in the Northern Zelaya region (Red Christmas Plan, December 1981);

- Attempt by the counterrevolutionary group, FDN, to take over the town of Jalapa in Nueva Segovia (Plan C, end of 1982 to April 1983);

- Bombings at the Augusto C. Sandino International Airport by a twin-engined plane of the counterrevolutionary group ARDE and bombings of the two ports, Puerto Corinto and Puerto Sandino, by T28 planes (September 1983);

- Naval attack by "Piranha" boats on the fuel depot at Puerto Corinto and at Puerto Cabezas, and bombing of the oil pipelines at Puerto Sandino (October 1983);

- Attacks on Nicaraguan ships by Honduran marines, in the Gulf of Fonseca (November 1983);

- Attack by an NH-500 helicopter on the village of Opali in Nueva Segovia (September 1, 1984).

10. All the evidence shows that these massive aggressions could not have occurred without substantial outside aid to the counterrevolutionary forces. These forces not only failed to gain a foothold among the population at large, but on the contrary produced a reaction of rejection that increasingly cemented the cohesion between the people of Nicaragua and their legitimate government. This reality was even recognized by the U.S. Central Intelligence Agency, in U.S. congressional hearings held during 1983. The complaint presented to the Tribunal, and the majority of the reports and testimonies which have been submitted, demonstrate that the government of the United States and the governments which it supports in the region (primarily Honduras and, to a lesser degree, Costa Rica) are responsible for this substantial foreign aid, and for the development of the strategy of aggression.

11. The Tribunal deems that these grievances are well founded.

b. American Policy in Latin America

As early as May 1980, the Santa Fe Committee drafted a report for the Republican Party entitled "A New Inter-American Policy for the Eighties". This report outlined the major directions of U.S. policy toward the Latin American continent.

12. The concepts central to this policy are derived from the national security doctrine: War is inherent to human experience and reflects ideological/political rivalries.

The defense of the security of the continent against an alleged communist menace becomes the principal task. In this context, Nicaragua occupies a decisive place. The Sandinista triumph in Nicaragua is regarded in such circles as a manifestation of the communist menace because, in the words of the Santa Fe Report: "The Nicaraguan base on the American continent will now facilitate a repeat of the new Nicaraguan revolutionary model".

13. From this perspective, the defense of human rights is subordinated to ideological identity. What is alone valued is the capitalist model and its ideological attainment of formal political liberty. This view of human rights is tied to a conception of democracy as pure process, without regard to the actual situation of mankind. The evolution of U.S. policy toward Central America reveals that the Reagan administration has acted in general accordance with the ideas set forth in the Santa Fe Document, whether as a matter of deliberate plan or by parallel determination of national policy.

In his July 21, 1983 press conference, President Reagan declared that it would be extremely difficult to ensure stability in Central America as long as the present government of Nicaragua remains in power (*New York Times*, July 22, 1983).

The Tribunal has knowledge of similar statements that could be multiplied indefinitely. The same types of positions have been taken by the so-called bipartisan Commission on Central America named by the Reagan administration. The report of this Commission, headed by Henry Kissinger, contended that "the consolidation of a Marxist-Leninist regime in Managua" constitutes "a permanent security threat" (*New York Times*, Jan. 1, 1984).

14. The same viewpoint is found in the analyses put forth by powerful brain trusts with close connections to the Reagan administration. For example, the 1983 report of the Rand Corporation, "U.S. Policy for Central America," affirms the view that the security of the United States of America depends essentially on having the capacity to prevent the consolidation of any hostile regime in the Caribbean Basin and in Central America.

c. Organization and Support for the Counterrevolution

15. These U.S. declarations have been accompanied by actions which involve actual support for the counterrevolution. Since March 9, 1981, the Reagan government has authorized secret military actions against the government of

Nicaragua while at the same time terminating all relations with that country and launching an economic and diplomatic war against Nicaragua.

16. In the spring of 1981, counterrevolutionary elements that had taken refuge in Florida and Honduras began to receive military training from personnel associated with U.S. Special Forces (*New York Times*, Apr. 5, 1981).

On December 1, 1981, Reagan signed a plan for secret actions against Nicaragua articulated in 10 points, as elaborated by the National Security Council of the United States and aimed at creating a military force of 500 men, together with granting \$19 million in financial aid to carry out paramilitary operations against Nicaragua. These developments were confirmed by the former ambassador to El Salvador, Robert White, and have never been denied. During the summer of 1982, the U.S. Congress learned that counterrevolutionary forces directed by the CIA had increased to 1,000 persons.

In December of the same year, the CIA communicated to the U.S. Congress that these same forces had grown to 4,000 men. The CIA sought to unite these rather distinct counterrevolutionary bands into a single opposition force dedicated to the overthrow of the government in Managua. It was during this same period that counterrevolutionary forces began to launch almost daily incursions into Nicaraguan territory from Honduras. Under the aegis of U.S. Ambassador John Negroponte, a notorious expert in insurrection, Honduras had been transformed into a permanent base of secret operations. These developments were foreseen in the plan of December 1, 1981 (White, Richard Allen, *The Morass: United States Intervention in Central America*, New York: Harper and Row Publishers, 1984, p. 60).

It appeared ever clearer, even to American public opinion, that the anti-Sandinista efforts of the United States were not aimed at interrupting an arms flow from Nicaragua to El Salvador, the existence of which had never even been demonstrated to any degree, but at overthrowing the Nicaraguan government (*Newsweek*, No 8, 1982).

The reaction of the American public to these interventionary policies finally influenced the U.S. Congress, especially in view of overwhelming evidence of the facts, to adopt the Boland-Zablocki Amendment in December 1982. This amendment forbids the U.S. government to give aid of any kind to paramilitary groups that seek the overthrow of the Nicaraguan government or that seek to provoke war between Nicaragua and Honduras.

17. Although these efforts represent to the Tribunal a considerable demonstration of the Reagan government's involvement in support of the counterrevolutionary forces, they did not stop (the House of Representatives being obligated, among other things, to make deals with the Senate, which has a Republican majority) the involvement of the Reagan administration in the counterrevolutionary activities; in May 1983 the counterrevolutionary forces opened another front of operations against Nicaragua, mounted from within Costa Rica. These forces were armed with 500 weapons and \$100,000 furnished by the CIA (White, p. 64). And on May 4, 1983, President Reagan acknowledged publicly that the U.S. gave direct aid to the counterrevolution.

Furthermore, thanks to this aid, the counterrevolutionary forces expanded to 10,000 fighters during this same year. The CIA provided important military equipment to the counterrevolutionary effort: for instance, the two planes that bombed the international airport in Managua on September 8, 1983 had been directly furnished by the CIA (White, p.65). One has reason to believe that other acts of aggression, such as the bombing and mining of Nicaraguan ports, were arranged and partly executed by the CIA. During the month of July 1983, representatives of the U.S. administration admitted to the press that the CIA was in the process of making detailed maps of the three ports of Nicaragua, including Corinto (*San Francisco Examiner* July 17, 1983). Several months after the attack on the fuel depot at Corinto, it was admitted publicly in the press that the CIA had directed the operation by using specially trained commandos (*New York Times*, Apr. 18, 1984).

18. The culmination of all these activities was the mining of the ports of Nicaragua at the beginning of 1984, an undertaking in preparation since 1983. The operation was directly supervised by CIA agents stationed on a boat at the edge of the territorial waters of Nicaragua. This operation caused severe damage to Nicaraguan, Dutch, Panamanian, Liberian, Japanese and Soviet ships (and obviously risked a direct confrontation with the Soviet Union). The Reagan government did not hide its responsibility for the operation, which it defended by farfetched reasoning as an act of self-defense" for El Salvador and its allies in accordance with international law (*New York Times*, Apr. 9, 1984).

19. The facts recounted above convince the Tribunal that the mining operation was the outcome of a wider policy of aggression conceived and implemented over a long period of time on both an ideological and an operational level. This opinion is also shared by some of the elected representatives of the American people: Senator Patrick Leahy declared, "Any senator who thinks that the mining operation is somehow unique and different in kind from all the other military activity undertaken as part of the covert action program hasn't learned what is going on down there. Mining the harbors of Nicaragua is a logical consequence of a program aimed at conducting an undeclared secret war by proxy against a sovereign nation with whom we maintain full diplomatic relations" (*Washington Post National Week* Apr. 30, 1984).

20. In addition, financial aid to the counterrevolutionaries, which was \$19 million in 1982, reached \$54 million in 1983 and may have increased since. This sum, moreover, includes only official aid, for in reality the total aid at this point surpasses \$100 million every year. It is also necessary to consider that, as a result of growing opposition in the U.S. Congress, the Reagan government has found a new means of getting aid to the counterrevolution: by utilizing private organizations that support the mercenary troops..

21. On September 1, 1984, the military forces of the Sandinista government shot down a helicopter used by the counterrevolutionaries for an attack originating from across the Honduran border. The remains of two U.S. citizens were identified among the crew; it was revealed that they were members of a group called "Civilian Military Assistance" (CMA).

22. Five different U.S. governmental institutions (including the National Security Council, the Justice Department, and the CIA) acknowledged that they knew of the existence of this organization, which had been active for a year in the secret war against Nicaragua. Some official representatives of the government in Washington went even further in acknowledging that the mercenaries had been recruited so as to circumvent the decision of Congress (*New York Times*, Sept. 10, 1984). It is a fact that the Justice Department of the United States has never undertaken to investigate the CIA, despite the possible violations of U.S. Neutrality Act that this organization might provoke.

d. The Vassalization of Honduras and Costa Rica

23. The Sandinista revolution has radically modified power relationships in Central America. The United States lost its best ally in the region; confronted with this fact, the United States has looked for a new primary ally.

Honduras has several characteristics which made it well suited to play this role:

- 1) its geographic location;
- 2) its relative political stability;
- 3) the weak economic power of the local bourgeoisie;
- 4) a military apparatus both docile and ready to collaborate on projects with the United States.

24. From 1979 to the present, the North American presence in Honduras has continued to grow; the militarization of the country is undoubtedly the most visible symptom. In four years, from 1980 to 1984, the increase in military aid multiplied by 10: it has now reached the level of over \$40 million per year. The joint military maneuvers (United States/Honduras) go on and on and are ever-expanding; in the first six months of 1984, one can count only 41 days without joint military exercises. The presence of North American advisers and servicemen in Honduras is permanent; by the end of 1983 there were more than 5,000.

25. The amount of military construction by the United States in Honduras increased in the fiscal years of 1982, 1983, and 1984, and several proposals already known to exist for 1985 come to more than \$85 million.

26. Several of these construction projects were carried out without the knowledge of the Honduran Parliament or in violation of Honduran laws. The training center at Puerto Castilla, for example, is known to have been imposed by the United States. This shows, in an obvious manner, the subordination of Honduran interests to US pressures.

27. The situation with Costa Rica is different, its militarization being of a lesser degree and more recent. The growth in the militarization of this country has nevertheless been noted by numerous observers. This process began in January 1982, the period in which Israel and Costa Rica signed a military cooperation agreement. This agreement calls into question the traditional neutrality of Costa Rica and reinforces the alignment of this country with U.S. policy. Increasingly numerous aggressions by counterrevolutionary elements from Costa Rican territory suggest a growing involvement on Costa Rica's part. Greatly in debt, Costa Rica is at the mercy of the international entities that supply it with credit, the most important of these being controlled by the United States (IMF, IDB, IBRD).

e. Pressure of allies

28. The government of the United States has likewise exercised constant pressures on its allies to terminate their military aid to Nicaragua (as in the case of France), their political support, and their economic cooperation. This interventionary effort is dramatically manifested in a letter from Secretary of State George Shultz to the Ministers of Foreign Affairs of the 10 countries of the European Economic Community, and of Spain and Portugal, on the occasion of their meeting in San José, Costa Rica, in September 1984.

29. Taken together, these facts show clearly that the Chief Executive of the United States intends to destabilize the Nicaraguan regime by the combined use of military, political, and economic coercion.

*Economic Pressures*

30. A sufficient number of factors indicate that the Reagan administration has currently undertaken the destabilization of Nicaragua's economy.

These coercive efforts tend to:

- 1) cause a substantial reduction in Nicaragua's access to international commerce in general and prevent the importing of goods to satisfy the fundamental needs of the country, most notably food products and materials essential to the reconstruction of the economy;
- 2) cause international financial institutions, including the International Monetary Fund and the World Bank, to refuse to extend credit to Nicaragua;
- 3) support and even instigate actions aimed at undermining the reconstruction of the Nicaraguan economy, such as the blockading of the maritime ports, giving aid to the armed invasion forces originating from Honduras and Costa Rica, and training these forces.

31. Comparable acts of hostility would not cause great damage to an economy as strong and resilient as that of the United States. They have catastrophic effects on a country as small as Nicaragua, already having an uphill battle to repair the damage done by the Somoza dictatorship and the long civil war, and to meet the fundamental needs of the Nicaraguan people.

32. Since July 19, 1979, when the present government of Nicaragua was brought to power, remarkable economic progress has been made. The former Somoza government left behind a foreign debt of over \$1.6 billion, a very high figure for an economy of such restricted dimensions; the Nicaraguan Treasury did not have more than \$3.5 million, about enough to last three days, when the Sandinistas took over.

33. However, thanks to production being reorganized in fundamental ways, principally resulting from the agrarian reform, the country was able to revive its economy during the first three years of the Sandinista government.

34. Before July 1979, approximately 55% of the arable land of Nicaragua was owned or controlled by some 2,000 landowners holding vast or medium-sized properties, while more than 120,000 peasants had to survive on less than 3% of the arable land. At the end of 1983, the state of Nicaragua owned 23% of the land, small landowners and cooperatives owned 20%, and the medium-sized farmers owned 44%.

35. In 1980, economic growth reached 10% per annum; in 1981 it was 8.7%, but in 1982 it fell to 1.4%. Fortunately, thanks to measures designed to thwart the disastrous effects of hostile U.S. policies, growth resumed in 1983 and reached 4.5%..

36. However, since the middle of 1984, the Nicaraguan economy has again experienced great difficulties, for the following reasons:

- In the first place, the world economic recession has not spared the Nicaraguan economy. It is true that Nicaragua's agricultural production has increased, thanks to the agrarian reform, as has the production of manufactured goods, in certain cases by an average of 40%. But the world prices for the basic commodities exported by Nicaragua, such as cotton, coffee, sugar, and meat, as well as the prices of manufactured products, decreased, even falling below the costs of production.
- In the second place, the hostile economic policies of the Reagan government have virtually deprived Nicaragua of any access to the U.S. market; for example, the U.S. government reduced by some 80% the amount of sugar Nicaragua could export to the United States. Additional customs barriers to be imposed on Nicaragua are now being prepared.
- In the third place, the urgent need for the Nicaraguan people to defend their country against military interventions, supported by the United States and originating from Honduras, Costa Rica, and El Salvador, has placed a heavy financial burden on the Nicaraguan economy. It has also caused a loss of manpower necessary for economic reconstruction. Twenty-five percent of the national budget has had to be transferred in national defense expenses (arms purchases, maintenance of the army, etc.).
- In the fourth place, as a result of the gigantic debt inherited from Somoza, the present government was not in a position to prevent the Nicaraguan economy from being transformed into what is called "an international debt economy."

37. Like so many other Third World economies, the Nicaraguan economy will temporarily be looking for new foreign loans in order to meet obligations related to servicing its debt. Nicaragua's foreign debt had reached approximately \$3.6 billion by the end of 1983. Since the boycott imposed by the Reagan government on foreign loans in Nicaragua, it has become extremely difficult for the government of this country to deal adequately with its foreign debt, either for purposes of financing imports or gaining access to world markets. Currently Nicaragua must devote 70% of its exports to servicing the foreign debt. The burden of this debt has consequences for an economy as small as that of Nicaragua.

38. We must also note that the accusation that the Nicaraguan economy is tied to the economies of the socialist countries is entirely false. For example, regarding the foreign debt, Nicaragua received \$600 million in foreign loans in 1983. Only 18% of this came from socialist countries; the rest was received from other Latin American countries, Western European countries, and transnational banks.

39. Between 1979 and the beginning of 1983, the present government of Nicaragua received a total of \$1.88 billion in loans and gifts.

Of this, only 21.4% came from socialist countries (of which one-quarter was provided by Cuba), 22.4% came from other Latin American countries, and 7.5% (the majority in the form of gifts) came from Western Europe. The rest of the cash flow came from international monetary institutions, included IMF and the World Bank, transnational banks, and even financial institutions in the United States during the Carter administration.

In 1982, only 5% of Nicaragua's overall international trade was with socialist countries.

40. Because of Washington's refusal to sell Nicaragua any arms, Nicaragua had no choice other than to buy small quantities of arms from Eastern European countries as well as from non-aligned countries such as Algeria and Libya. Before the Reagan government came to power, Nicaragua purchased small quantities of arms (approximately \$40 million) in France. The Reagan government succeeded in persuading the Mitterrand government to stop selling arms to Nicaragua.

41. An appreciable number of Western European countries continued to provide aid to Nicaragua for its economic development despite Reagan attempts at intimidation.

42. Based on these elements of proof, the Tribunal has come to the conclusion that the economic policies of the Reagan administration toward Nicaragua have caused great damage to its economy. However, it is the military aggression, supported both financially and material by the United States, that does Nicaragua the greatest economic and social damage.

43. The ranching and agricultural sectors, so important to Nicaragua because they provide employment for almost 45% of the work force and represent 60% of the total foreign exchange generated by the export sector, were particularly damaged. The peasant population was hit very hard: 487 workers killed by counterrevolutionary attacks and 581 workers abducted.

120,672 people had to be moved from combat zones and relocated elsewhere; it was also necessary to aid them in reconstructing their lives on a viable basis.

44. The cost of this operation reached more than 55 million dollars. Accumulated losses in these sectors (agriculture and ranching) reached 17.6 million dollars in the form of damage to the infrastructure and mechanical equipment, as well as 19.6 million dollars in losses from damaged crops. A minimum estimate of other damage to these sectors is 64.4 million dollars. The loss of earnings and the loss of production in the public sector for the rest of the economy has been estimated, for 1983, at 64.8 million dollars. Damage was particularly significant in the forestry, fishing, energy, transportation, and construction industries. These figures are for the most part incomplete and they constitute the most conservative estimate of the damages. They do not take into consideration the tragic suffering of the people nor the loss of human lives, effects that it is impossible to express as statistics, nor the destruction of hospitals, schools, and other social services.

#### *The Ideological War.*

45. Far from considering that its intervention in Central America, and particularly in Nicaragua, is an exercise in violence, the American government insists that it is an act of solidarity with the people and a legitimate defense of collective interests.

46. To justify its intervention, it disseminates worldwide an image of the Sandinista state as a military, political, and ideological threat, an image that calls into question the legitimacy of that state. Nicaragua is therefore not the victim of aggression but the aggressor.

47. The accusations used in creating this image are numerous. But the most fundamental is that of being "Marxist-Leninist." Marxist-Leninist: By this reasoning, the Sandinista Front is charged with betraying the original democratic and pluralistic inspiration of the Nicaraguan revolution. It is charged with installing a totalitarian regime in Managua by taking over all the organs of the state and by excluding from power the other forces which had participated in the overthrow of the Somoza dictatorship.

48. It is charged with having suppressed all liberties, and with the violation of human rights; it is also accused of persecuting, indeed exterminating, the indigenous minorities. Being Marxist-Leninist, the Sandinista Front is accused, despite certain appearances, to be profoundly anti-Christian.

49. The proof would be, for example, the conflict with the church hierarchy, the expulsion of foreign priests. and the lack of respect toward the Pope during his visit to the country.

50. The Christians involved in the revolution are said to be manipulated by the Sandinista Front; the influence of its ideology has corrupted their faith and broken their loyalty to the real Church, it is said.

51. On the geopolitical plane, the Sandinista Front, being Marxist-Leninist, is alleged to have submitted to the hegemony of Moscow. Therefore, it is said to represent a new frontier for international communism in the Central American region. Its tendency to export revolution is said to be flagrantly manifested by its constant military support to the El Salvadoran guerrillas.

52. The United States developed this campaign of accusations against Nicaragua thanks to the enormous means at its disposal, notably its diplomatic network and ideological apparatus. The United States exerts great control over the spread of information. The new Institute for Religion and Democracy, specializing in ideological warfare on the religious level, was accorded a special significance in this campaign.

53. The accusations and arguments coincide, moreover, with positions taken by certain sectors of the Nicaraguan opposition, particularly the "Coordinadora Democratica", whose principal organ is the newspaper *La Prensa*. Furthermore, broad sectors of the Catholic hierarchy, both Nicaraguan and international, contribute significantly to the campaign, as do the Evangelical churches and several Protestant sects active in Nicaragua. The accusations and arguments of these religious groupings coincide in a striking manner with those of the North American ideological apparatus.

54. On the various grounds we have mentioned, the Sandinista state has no legitimacy according to the U.S. administration. The Sandinista power to govern is challenged. The armed opposition to the Sandinista government is therefore legitimated; on the other hand, the effort to provide an armed defense of the revolution is correspondingly de-legitimated.

55. In this light, the intervention of the United States in Nicaragua appears as a crusade for the defense of democracy, the oppressed opposition, the indigenous minorities, the Church, and Western Christian civilization.

56. However, it is clear that this image of the Nicaraguan revolution is based much more upon the ideology attributed to the Sandinista Front than its actual character. The disparity between the seriousness of the accusations and the inconsistency of the proof is notable. The ideological argument is not based on an appreciation of the facts, it instead substitutes itself for the fact. Furthermore, the conception of Marxism-Leninism attributed to the Sandinista Front has nothing to do with the historical goals and theoretical perspectives that have inspired and continue to inspire the Sandinista Popular Revolution. These theoretical perspectives propose in essence to clarify the process of popular liberation by developing, in an original and anti-dogmatic manner, the contributions of the Sandinista, Marxist, and Christian traditions.

57. In addition, no convincing justification has been provided for placing in doubt the autonomy and Christian authenticity of the priests, religious, and lay people taking part in the revolution as a direct expression of their faith. The



testimony of witnesses heard by the Tribunal, and of persons who have communicated with it, leads to the opposite conclusion.

58. Even though it is a fabrication, the “Marxist-Leninist” image of the Sandinista Popular Revolution performs a precise function: to hide the economic and political contradictions by transforming them into ideological and religious contradictions; to overshadow, on the geopolitical level, the contradictions between North and South, between the forces of oppression and the oppressed, and to artificially place in a central position the contradiction between East and West; that is, between the Christian capitalist West and the communist world, labeled “Marxist-Leninist” and “atheist.”

59. This is why Nicaragua is such a prime target for the United States. The national security doctrine as applied to Nicaragua coincides perfectly with U.S. policy as applied everywhere else on the continent and particularly in the Southern cone. To recognize the validity of this doctrine would mean for the oppressed peoples to renounce definitively their dreams of freedom. For the United States, the ideological campaign against Nicaragua is part of its battle for worldwide hegemony. A hegemony which is called into question by the very attempt of the Nicaraguan people to break out of the logic of blocs, and to earn the right to control their own destiny; to break with the culture of domination and fatalism and to establish a culture of liberation.

60. In repressing the aspirations of the Nicaraguan people and other oppressed people the United States contradicts the ideals of its own revolution, the revolution that for more than two centuries has inspired oppressed peoples to fight for their own right to life and liberty.

### 3. HISTORICAL SOURCES OF U.S. INTERVENTIONS

61. We must recall that U.S. interest in Central America and most particularly in Nicaragua has been continuous since the second quarter of the 19th century. The origin of that interest, like its various economic and political manifestations, is tied to the development of the capitalist system in the United States itself.

62. U.S. leaders did not wait until either the Russian revolution of October 1917, or the Cuban Revolution of 1959, or the Sandinista revolution of 1979 to consider this region as their zone of influence.

63. We can distinguish three periods in the history of U.S. interference in Nicaragua:

#### *1) 1825-1860 (Approximately)*

64. During the first period, U.S. interest was focused on obtaining a territorial concession that would permit the construction of a waterway for navigation between the Atlantic and Pacific Oceans. It was a matter of inflicting a partial loss of sovereignty upon Nicaragua so as to secure profits for private North American economic interests. The U.S. government intervened on two levels. First, it intervened on the international level and in a direct manner, in response to the reaction of Great Britain, which sought to guard its supremacy on the seas (an accord was signed, the Clayton-Bulwer Treaty of 1850). Inside Nicaragua, it intervened in an indirect manner: by lending support to one or another faction of the bourgeoisie (the conservatives of Granada, the liberals of León), and then to an American national (William Walker) who came to set up a local dictatorship and was recognized officially by the United States in 1856.

#### *2) The Second Period 1860-1932*

65. The second period was one of the developments in Nicaragua itself, especially in the Atlantic Coast regions, of American enterprises that exploited natural resources (rare woods, construction lumber, minerals) and monoculture enterprises that produced tropical products (sugar cane and bananas) in self-governing enclaves. They had their own currency and, except for the mines, they functioned principally through the creation of a totally dependent labor force and through the purchase by each enterprise of the products of small producers who received payment in currency that could be used only to buy consumer goods imported by the enterprise itself. In addition, in the Pacific region, the development of the coffee economy led to a new system of agrarian production (the expulsion of peasants from any land suitable for coffee plantations, the formation of a rural proletariat deprived of its own land). This system was promulgated by the liberal bourgeoisie, which took political power (Zelaya): out of nationalism, it defended the interests of the Nicaraguan and Central American capitalists against the overseas interests of the United States.

66. This nationalist policy was also a reaction against the American practice and rationale of imperial power, which justified not only the Spanish-American War but also military intervention in Nicaragua. From the first decade of the 20th century, the U.S. State Department functioned like a bank that ensured financial support to docile governments in the Caribbean and Central America. The more independent governments in the region had to confront the Marines and the activities of the secret services that protected American mining enterprises and banana plantations. The political power of the United States was therefore at the service of private North American economic interests. The U.S. government carried out this function by developing a two-sided strategy: granting privileges to an array of local politicians to assure their collaboration, on the one hand, and intimidation by the Marines or the activities of the secret police and repressive forces on the other. Implementing this strategy between 1926 and 1938 led American troops to occupy several regions of Nicaragua for prolonged periods. It was against this control and this military presence that General Augusto Sandino organized his long nationalist struggle that spread across the entire country (1927-1933). This armed challenge resulted in the retreat of American troops, but also led to the assassination of Sandino, who has remained the symbol of anti-imperialist struggle for the Nicaraguan people.

#### *3) The Third Period 1932 -1972*

67. The third period is marked by the development in the political arena of a dictatorial system upheld by the ideology of national security (the Somocista period 1937-1979). This regime, put in place by the Americans, received their constant support, whether at the level of organizing and equipping the armed forces (the National Guard), or at the level of public finance (extension of the debt). This American presence "via interposed persons" fulfilled a double function.

68. First, it assured the U.S. government of the support necessary to pursue its foreign policy goals vis-a-vis the Axis powers (end of the 1930s and beginning of the 1940s), and then the communist bloc (1945 to the present).

69. In the second place, these dictatorships at the service of the United States also assured the multinational enterprises of a servile and cheap labor force for the production of consumer goods and even certain manufactured products. It was American imperialism, and the Nicaraguan dictatorship that it sponsored, which gave rise to the movement catalyzed by the FSLN.

70. After the revolution of 1979, the new regime has introduced Nicaraguan society to a process of rupture with the capitalist system. In terms of foreign policy, Nicaragua was integrated into the group of nonaligned countries. These events unfolded while in El Salvador, Guatemala and, to a lesser degree, Honduras, armed struggle took place. Rather than recognize the real causes of these movements, the American administration has argued for the need to set up a front against Soviet penetration of the hemisphere that it assumes the right to control (see confirmation of this in the Report of the Kissinger Commission, January 1984, Chapter 4). This is a new phase of U.S. geopolitics.

71. From that perspective, the Nicaraguan revolution constituted a breach in the line of defense in the Caribbean and Central America, not only by the transformations it creates in the relationship of forces within the region, but also because Nicaragua is evolving a new societal model that could appeal to the entire continent. The Sandinista experience is a symbol of hope, showing that change is possible. Translated into diplomatic practice, the American ideology is expressed in indirect military intervention and direct action in the economic and political spheres.

#### **4. NICARAGUA IN SEARCH OF ITS IDENTITY**

72. Despite innumerable obstacles created by the external aggression, Nicaragua has used the last five years beneficially, to reconstruct the state and the society in an original manner and to give men, women, and children new reasons to live.

73. Even in these early stages, this process represents a promise and a hope to all the peoples of the world.

Even if the state has not yet attained its complete, formal legitimacy, the power structures have been profoundly transformed so as to give voice to the people and serve the real interests of the disinherited. Unlike most countries on the continent, Nicaragua is led not by individuals but by collectives (for example, the Government Junta, the Council of State). Power is therefore largely shared and is no longer the property of a few privileged groups or individuals. The regime aims to be not only pluralist domestically but equally open to foreign countries; this is the reason for Nicaragua's solidarity with Third World countries, which it has demonstrated by participating in the "non aligned" group and playing an active role there. It participates fully in the efforts of the Latin American countries to make the continent a nuclear free zone, adhering to the Treaty of Tlatelolco.

74. At the same time, Nicaraguan society today is the locus of intense cultural and social activity (a literacy campaign reducing the illiteracy rate from 50% to 12%, a permanent program of adult education, health campaigns with massive vaccinations which most notably eliminated polio, the development of cooperatives in the agricultural sector, agrarian reform with distributions of land to the poorest farmers, the humanization of the criminal justice and prison system.

75. These reforms have been accompanied by a program for the construction of primary and secondary schools in the rural areas, with the participation of voluntary teachers. Many Nicaraguans have left their studies voluntarily to bring their energy and labor to the cotton and coffee harvests. On the cultural level, the creation of libraries and the setting up of book vans, and the widespread development of workshops in poetry, dance, and theater began producing many positive results. This all-encompassing cultural process profoundly changes the life of the people and people's relations with each another. The solidarity of the neighborhoods, and participation in the organization and the defense of daily life, are also manifested at the religious level. Popular religion, rather than being a source of alienation and the pretext for all sorts of excesses, is transformed into a growing awareness that real religious faith is a powerful force for the happiness and freedom of all.

76. With respect to the elections on November 4, 1984, 1,560,000 Nicaraguans over the age of 16, or 93.7% of the population eligible to vote, have registered. Thus, it has been established that the people are mature enough to take political responsibility and freely conduct their own history.

77. The dictatorship of the past is dead.

It is clear that the construction of a new society that was begun after the revolution of July 19, 1979 included some political errors and individual excesses. This was the case especially in the Atlantic Coast region, in relation to the indigenous minorities, who were victims of counterrevolutionary propaganda and of persons manipulated to oppose the Sandinistas.

78. In this region, the situation of war, the security measures that war demands, and notably the resulting displacement of these populations along the Northern border considerably slowed down the correction of errors and the establishment of trusting, reciprocal relations. Nevertheless, and prominently since the amnesty measures of December 1, 1983, peaceful solutions and genuine reassurances have been pursued with sincerity and effectiveness.

## 5. PEACE EFFORTS

79. The government of Nicaragua, faced with the current war and facts that show the participation in it of Honduras and the United States, has from the beginning demonstrated a clear desire to negotiate a peaceful settlement. Nicaragua has acted in accord with the goals of the United Nations Charter, Article 1 (1), and has invoked the mechanisms of peaceful settlement contained in Article 33 of the Charter. It has even followed along the path of the courts of law, seeking validation in a judicial setting (request addressed by Nicaragua to the International Court of Justice on the April 9, 1984).

80. Specifically, the most significant expressions of Nicaragua's desire for peace include the following:

*1. Contacts and Proposals for Direct Negotiations with the Government of the United States:*

These began in Managua on August 12, 1981, with the meeting between Thomas O. Enders (Assistant Secretary of State) and Daniel Ortega Saavedra (Coordinator of the Government Junta of National Reconstruction). These were followed in April 1982 by discussions with Anthony C. Quainton, U.S. Ambassador to Nicaragua. They were taken up again in June 1983 which Special U.S. Ambassador to Central America Richard Stone and extended into 1984, at Manzanillo (Mexico), through discussions with Nicaraguan Deputy Foreign Minister Hugo Tinoco and Ambassador-at-Large Harry Shlaudeman

*2. Contacts and Proposals for Direct Negotiations With Honduras:*

These have been conducted at the highest level, beginning with the 1981 visit of Daniel Ortega to Tegucigalpa, and in 1982, at the level of the Chiefs of Staff (May 2) and the Ministers of Foreign Affairs (October 8).

*3. Favorable Responses to Initiatives of the Contadora Group:*

Nicaragua's responsiveness has been shown in a very specific manner by its endorsement of the Document of Objectives relating to peace in the region, through its proposal for implementing those objectives entitled "Legal Bases to Guarantee the Peace and International Security of the States of Central America" (October 17, 1983). This proposal contains the following elements:

a) A draft treaty to guarantee mutual respect, peace, and security between the Republic of Nicaragua and the United States.

b) A draft treaty of peace, friendship, and cooperation between the Republics of Honduras and Nicaragua.

c) A draft accord concerning El Salvador, to contribute to a peaceful solution of the armed conflict within the Republic of El Salvador.

d) A draft treaty between the Central American republics, on the maintenance of peace and security and relations of friendship and cooperation between the republics of Central America. (This proposal was broadened on November 30, 1983 by a proposal concerning military questions, a policy declaration and an agreement aimed at promoting economic and social development in Central America.)

*4. The Decision, in September 1984, to Sign the Contadora Act:*

This meant that Nicaragua accepted the multilateral framework for peace (replacing the bilateral treaties indicated above) as proposed by the Contadora Group. It implies, for the five Central American countries, the beginning of implementation of the means to achieve a regional detente; commitments with a view to achieving national reconciliation in the areas of human rights, electoral process, etc.; measures to stop the flow of arms and to begin negotiations on arms control; the elimination of foreign bases and military schools on national territory; the progressive withdrawal of foreign military advisers; the elimination of extra- and intra-regional arms trade destined for opposition persons or groups that aim to overthrow governments, and the banning of support for these forces. In addition, important measures were set out in the Contadora Act: the creation of a multilateral mechanism designed to channel and control economic and social aid and cooperation in the five Central American countries, and the creation of an impartial international commission for the verification and implementation of the agreements that are accepted.

81. In the face of the attitude of Nicaragua, which has shown itself to be favorable to negotiations, it should be pointed out that:

1) The demands of the United States for cessation of the arms traffic from Nicaragua to El Salvador - a traffic which has never been proven to exist - have created an impasse, making it impossible to reach any bilateral accord between Nicaragua and the United States.

2) Honduras has repeatedly refused to enter bilateral negotiations with Nicaragua. Meetings parallel to the Contadora gatherings have been organized among the Central American states, excluding Nicaragua. (Among these are the famous "Forum for Peace and Democracy" of October 1982, initiated by the United States, and the meeting in Tegucigalpa in 1984 of the Ministers of Foreign Affairs of the Contadora Group, El Salvador, Honduras, and Costa Rica; all such meetings are inconsistent with the actions proposed by the Contadora group itself.)

3) Although there were six meetings of the five Central American states under the aegis of the Contadora Group, for the purpose of guaranteeing respect for mutual interests, Nicaragua was the only one of the Central American countries that gave an affirmative response to the document setting forth the overall objectives.

4) The United States has not accepted the Contadora Act, and has exerted overwhelming influence on the other Central American countries, assuring their refusal to sign.

82. During the course of these developments, there has been no serious plan put forward on the part of the United States or its Central American allies to submit the conflict to a process of peaceful solution. Given the involvement of the United States and Honduras in the war against Nicaragua, it can be stated that these states failed to uphold the international obligation to seek peaceful settlement as it is formulated in Article 33 of the United Nations Charter.

83. Why this attitude? It must be pointed out that the Contadora peace efforts and the previous proposals by Nicaragua for negotiations have as their primary objectives peace in the region, the elimination of foreign military aid of any kind, and the conveyance of economic and social aid through multinational channels. These peace efforts represent a departure from United States policy toward Central America, a policy which, according to the documents submitted to the Tribunal, insists upon:

1) The fundamental principle of the hegemony of the United States in this zone, regarded as a strategic area for the security of the United States;

2) Interpreting and treating the Central American conflict as an expression of East-West tension;

3) The control of the United States over economic and social aid to the zone (bilateral aid subordinated to political conditions) in a manner that excludes Nicaragua.

The Contadora peace proposal overcomes and prohibits the isolation of Nicaragua - now considered by the United States as a country aligned with the East - and recognizes the reality that Nicaragua has undergone a national and non-aligned revolution.

## **6. CONSIDERATIONS OF THE LAW**

84. The government of Nicaragua accuses the United States of repeated violations of its sovereign rights. The most serious accusation concerns the international crime of aggression, of which the United States is guilty by virtue of multiple illegal interventions with the goal of depriving Nicaragua of its right to self-determination.

85. The crime of aggression has been perpetrated by various types of acts, all of which violate the rights of Nicaragua and which, moreover, even imply certain violations of the laws of war or incite war. This illegal conduct is aggravated by the persistent refusal of the government of the United States to abide by the various procedures for the peaceful settlement of differences, as required by the *ius gentium*, notwithstanding the constant efforts of the Nicaraguan government to negotiate a peaceful solution.

86. Specifically, Nicaragua contends that the United States has organized, trained, and armed counterrevolutionary forces established in Honduran territory, whose main objective is to overthrow the legitimate Sandinista government. Nicaragua contends that this entire policy violates rules forbidding the recourse to force and intervention in the internal affairs of other nations, set forth most notably in Article 2 (4) of the Charter of the United Nations, in Articles 18 and 20 of the Charter of the Organization of American States, and Article I of the Havana Convention of February 20, 1928 on the rights and duties of states in the event of civil war.

87. These various violations, orchestrated by the Central Intelligence Agency (CIA) on behalf of the U.S. government, have caused suffering and death for the Nicaraguan people and led to numerous illegal incursions into their territory, with the aim of terrorizing the civilian population, and in a time of great economic shortages have abusively deprived them of food resources.

88. In particular, Nicaragua accuses the government of the United States of having violated in the most serious manner its most basic rights as a sovereign nation by mining its ports (Articles 1,2,3 of the VIII Convention of the Second Hague Conference), which caused considerable damage to its port installations as well as to several ships operating under foreign flags. These mining operations, which are acts of war, constitute an aggression on the part of a country which is officially at peace with Nicaragua and which still maintains diplomatic relations with it.

89. Nicaragua also accuses the United States of threatening a major invasion of its territory, a threat made credible by U.S. engagement in numerous air, sea, and land maneuvers on the basis of planned and disclosed strategic options.

90. Such threats and plans constitute an aggression that makes a mockery of the sovereign rights of Nicaragua. The menace of this threatened invasion compels the Nicaraguan government to devote most of its already scarce resources to defense against these illegal activities, resources desperately required to meet the needs of its people.

91. Nicaragua contends that these illegal practices constitute criminal behavior, and entail personal accountability on the part of the Chief Executive of the United States and other policymakers in the sense of this term as defined by the Nuremberg Tribunal.

## **7. THE DEFENSE OF THE UNITED STATES**

92. In substance, the United States contends that it is acting in legitimate self-defense, according to the rights of peoples, and accuses Nicaragua of massive arms shipments to the Salvadoran rebels. This export of the Sandinista revolution constitutes, according to the United States, intervention in the internal affairs of El Salvador.

93. In this context, the United States claims that the mining of the ports of Nicaragua and the support given to the counterrevolutionary forces constitute an expression of the right of legitimate collective defense. Toward this end, the U.S. government relies on a broad and self interpretation of Article 51 of the Charter of the United Nations, which confers the right of self-defense upon all states.

94. The United States accuses Nicaragua of supporting the rebel forces of El Salvador; and contends that such assistance constitutes an aggression according to the terms of Article 39 of the Charter and of the resolution on the definition of aggression adopted by the General Assembly of the United Nations in 1974.

95. The United States claims that its actions are a reasonable and appropriate effort to stop the flow of arms in El Salvador, with no intention of overthrowing the Sandinista government. It contends that it is no longer responsible for the conduct of the “contras” in their internal opposition to the Sandinista government.

96. The United States declares, finally, that Nicaragua has not fulfilled OAS norms regarding human rights and democracy, and that such deficiencies are sufficient to justify the external pressures exerted on Nicaragua to encourage respect for these norms.

## **8. OPERATIVE PART OF THE JUDGMENT**

97. After having appraised the evidence presented, the Tribunal has arrived at the following conclusions:

- The government of the United States has not proven its principal accusation, that of the support given by Nicaragua to the rebel forces of El Salvador;
- The obvious objective of the rebel forces active along the border and in the interior of Nicaraguan territory is to destabilize, and if possible to overthrow, the government in Managua;
- By principal reliance on the CIA, an organ of the U.S. government, rebel forces are essentially equipped, directed, and controlled by the United States;
- The government of the United States has blocked efforts by Nicaragua to find a peaceful resolution of its disputes with foreign governments and has not shown good faith in trying to find a negotiated solution;
- The military and paramilitary operations have caused great suffering and great damage to the Nicaraguan people;
- The United States has undertaken numerous military maneuvers which threaten Nicaraguan security, for purposes of provocation and intimidation and has made plans for a large-scale invasion directed at Nicaragua.

### **Decision of the Tribunal**

98. The facts herein reviewed demonstrate that the United States on many occasions has not respected the rules protecting the rights of peoples. The constancy and the gravity of these violations testify to a systematic policy that the Tribunal repudiates for its detrimental effects on the most fundamental rights of states and the most basic demands of the international community.

A) The foundation for this conclusion rests in the first place on the testimony presented and the documents produced which show that various American practices are contrary to the rules of general international law that govern relations between states. These practices also violate obligations contained in treaties that are normal a part of domestic as well as international law. Among the most pronounced of these violations is the discriminatory reduction of the sugar import quota (a violation of General Agreement on Tariffs and Trade, GATT). Also notable are the violation, through support given to the rebel forces, of the Havana Convention of February 20, 1928 on the rights and duties of states in the event of civil war, and the abuses of rules protecting freedom of the high seas through naval maneuvers whose main objective is to threaten the security and stability of a coastal state.

The accusations that were presented to this Tribunal are more serious than those just mentioned. This is why the Tribunal will not dwell on them. These accusations need however to be condemned, even if they will not fall under the U.S. policy of systematic nonrecognition of the sovereignty and independence of Nicaragua.

B) These conclusions are based on convincing evidence submitted to the Tribunal that the United States provides massive assistance to the forces attempting to overthrow the legitimate government of Nicaragua. This military aid takes the form of equipping and training armed personnel dedicated to counterrevolution. It is reinforced by U.S. tactics aimed at achieving the economic strangulation and diplomatic isolation of Nicaragua.

The United States policies constitute the most serious violation of the rules of international law that forbid intervention in the internal affairs of others and protect the basic rights of each people and each country to set up a regime of their choice through the dynamics of national self determination.

These legal conclusions reflect also the norms of the Charter of the United Nations, especially as specified in resolutions 2131 (XX), 2625 (XXV), 2734 (XXV), and 36/103 of the General Assembly of the United Nations. Those resolutions have been adopted with the approval of the United States and their validity cannot now be contested.

In this case, the evidence presented leaves no reason to doubt the democratic achievement of the Nicaraguan revolution. The Tribunal rejects the allegations made by the United States government concerning Nicaragua's failure to live up to its democratic promises, and denies the right of any government to judge the democratic character of other governments.

Under these conditions, there is no humanitarian justification for the intervention in Nicaragua. The problems existing in Nicaragua do not justify intervention, especially as the worst of these problems have been instigated by the United States itself.

C) Independently of the illegitimate intervention that has been established, the evidence presented supports a finding of aggression by the United States against Nicaragua, a basic violation of international law.

Aggression is defined in Resolution 3314 (XXIX) of the United Nations General Assembly, whose provisions have been accepted unanimously by the member states who are empowered to interpret the Charter. Given this level of authoritative agreement, this U.N. resolution is properly treated as a declaration of law.

99. The evidence presented to the Tribunal establishes:

- that the mining of Nicaraguan ports by agents of the United States is a “use of armed force by a State against the territorial integrity of another State” in the sense of Article 3 (b) of the resolution, even if it does not constitute an illegal blockade in the sense of Article 3(c) of that resolution;

- that the support given by the United States to the rebel forces seeking to overthrow the legal government of Nicaragua, by the manner in which it has taken place, constitutes “a substantial involvement” on the side of the forces “which carry out acts of armed force against another State” as set forth in Article 3 (g) of the resolution.

100. These acts, which challenge the sovereignty and political independence of Nicaragua in a manner incompatible with the Charter of the United Nations, are of “such gravity” as to establish the Nicaraguan charges of aggression beyond any reasonable doubt. There are no “other relevant circumstances,” in the sense of Article 2 of the resolution, that might be invoked to refute this conclusion.

101. There is no serious ground to support the claim that the armed intervention by the United States can be justified as an instance of the right of legitimate defense. It is true, as argued by the United States, that legitimate collective defense is recognized by the Charter of the United Nations and by general international law. The Tribunal determines, however, that the conditions required for this legitimate defense, which the United States claims, are not present for the following reasons:

- There has been no proof of the existence of armed aggression by Nicaragua against El Salvador. The United States government alleges that arms have been shipped from and by Nicaragua and are destined for rebel forces in El Salvador. No adequate proof of these charges has been offered. Even if it is assumed that these charges were established, such actions by Nicaragua would not constitute armed aggression in the sense of Resolution 3314 (XXIX). Therefore, recourse to force on the grounds of legitimate defense is not permissible.

- Further, even assuming the existence of such aggression, the fact remains that the U.S. has always abstained, until now, and it seems that it has even refused, to inform the competent United Nations bodies of the threats they invoke today to justify their intervention policy 5 years after undertaking it. The principle of legitimate defense could not be admitted, except not to disregard the terms and the spirit of the Charter, if not after the existing collective security mechanisms, which could allow you to avoid a individual appeal, have proved ineffective. But this is not the case under consideration.

102. The Tribunal fails to note any urgency of the sort that might allow the United States to act alone. Even in such instances, a state is obliged to inform the Security Council immediately if it acts in self-defense; similarly the United States cannot claim a right to act alone because the U.N. organs are paralyzed, especially since the United States would itself be the state primarily responsible, through the exercise of its veto, for creating this paralysis.

103. The same legal analysis pertains to the procedures and rules contained in the OAS system. The United States has avoided recourse to the OAS before undertaking its illegal program of multiple interventions.

104. In this context, the Tribunal rejects any attempt to criticize Nicaragua for not having resorted to such procedures. Either way, there should be no need to point out that this too, though should it be proven, it could never justify the attacks pursued by the US in violation of the right of peoples.

105. Finally, there exists the gross disproportion between the massive amount of power unleashed by the United States in its intervention in destroy the legal authority of Nicaragua, and the legitimate defense that it claims to be pursuing.

106. On these various grounds, the Tribunal considers that the validity of the accusation of aggression made by Nicaragua against the United States is convincingly established beyond any reasonable doubt.

#### **ON THESE GROUNDS,**

##### **The Tribunal**

**Condemns** the policies followed by the United States in relation to Nicaragua as contrary in the rules of international law that forbid intervention in the internal affairs of a sovereign state and prohibit all associated acts of aggression;

**Recalls** that these policies amount to violations of the most fundamental law of international society and constitute the commission of the most serious crimes against the rights of peoples;

**Declares** the unconditional rights of the Nicaraguan people in enjoy self-determination, independence, and sovereignty;

**Calls upon** the international community to assure that these basic rights of the Nicaraguan people be preserved and that the crimes that violate them be punished.

## **9. MESSAGE FROM THE PERMANENT PEOPLES' TRIBUNAL**

107. Between dignity and contempt, Nicaragua defines its destiny these days. The people who triumphed in 1979, after 25 years of struggle and 50,000 deaths, found themselves facing a country ravaged by war and stripped for almost half a century by the dictatorship of the Somoza family.

108. Before 1979, Nicaragua was the Central American country that spent the most on armaments and the least on health and education. After the Sandinista revolution dissolved the army of the dictatorship and implemented profound social reforms, the country was forced to live in a state of war.

109. It is a war of aggression, of growing ferocity and is both illegal and undeclared. Through this war the USA denies Nicaragua the right to independence and self-determination, which they themselves have had for more than two centuries. This is similar to when they had denied them the right to rebel against tyranny, as established by the Declaration of Independence in the days of Washington and Jefferson.

110. This vast criminal project, financed in the name of human rights, invokes democracy to restore the dictatorship and invokes the homeland to restore the colony. On the military level, it uses an army made up mostly of soldiers and officers of the Somozist dictatorship, amnestied by a revolution that did not shoot anyone in the moment of triumph.

111. This army, which aims to wreak havoc on Nicaragua, has its main bases in Honduras and Miami and is notoriously recruited, financed, trained, and directed by the US government. The American military advisers participate directly in these actions.

112. Although the main objective of this war of aggression is Nicaragua, its field of operation also includes neighbouring countries, which are transforming themselves into large military bases according to an imperialist geopolitical conception that considers Central American territory as part of the territory of the USA.

113. There are now numerous victims of state terrorism that the current US administration is using, in direct and indirect ways, against Nicaragua. This incessant offensive is forcing Nicaragua to sacrifice a large part of its development projects to meet the enormous expenditure of national defence and is forcing them to use, in their military camps, their scarce material and human resources, which the revolution would have needed for far more constructive purposes. In addition to military attacks, invasions, bombings, bombings and sabotage, the war of aggression includes suffocating political, economic and cultural pressures and involves endless violations of United States law and international legal norms. The attack seeks justification through a big international campaign of "poisoning" public opinion around the world, intended to show the victim in the role of the murderer and magically convert the murder into a victim.

114. Little is known in the world about what the Nicaraguan revolution managed to achieve: in the midst of the war of aggression it was able to literate half a million people and was able to lower infant mortality by at least a third (and maybe even half), according to the most prudent calculations. In return, the propaganda reduces the current history of Central America, in terms of the cold war between the blocs, as if the Nicaraguan revolution and the revolutionary processes unfolding in Guatemala and El Salvador were no more than echoes of false rumours and were the result of a conspiracy plotted in the secret rooms of the Kremlin.

115. In this way one can see the realities of a region of the world in which being alive and healthy at the age of 15 is a business and a privilege, and where North American democracy puts and takes away dictators as easily as pawns from a chessboard.

116. The United States, which owes its independence and freedom to popular struggle, has denied the people involved in Nicaragua's struggle any credit for the reconstruction of a country destroyed by a dictatorship that the United States itself had imposed. In return, they have earmarked and still allocate millions of dollars to its destruction.

117. For this system of power based on the exploitation of many countries by a few countries, the danger arises not from arms trafficking towards the guerrillas of El Salvador. Nicaragua is dangerous because it exports an example, not weapons: the example of a small country that does not allow itself to be humiliated, which has a strong national independence not reduced to hymns and a flag and which lays the foundations until on its soil a true democracy shines.

118. Nicaragua is not attacked because it is not democratic, but until it is not. Nicaragua is not attacked because it is a military dictatorship, but so that it becomes one again. Nicaragua is not attacked because it is a satellite country of a great power, but so that it becomes one again. What one finds is an armed population, defending their right to life. For the first time in history, Nicaraguan people occupy the central axis of power and are the protagonists and creators of their own destiny.

119. For the first time, Nicaragua fully exercises its sovereignty.  
This is its challenge, its curse and its wonder.