

CORRESPONDENCE

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1. THE AGENT OF NICARAGUA TO THE REGISTRAR OF THE
INTERNATIONAL COURT OF JUSTICE

[See pp. 3-8, supra]

2. THE REGISTRAR TO THE AGENT OF NICARAGUA

28 July 1986.

I have the honour to acknowledge receipt of two Applications by the Republic of Nicaragua, one instituting proceedings against the Republic of Costa Rica and the other against the Republic of Honduras, both filed in the Registry today, 28 July 1986, at 10.00 a.m. local time.

The Government of Costa Rica and the Government of Honduras are informed by me by telex¹ of the filing of the Applications. In accordance with Article 38, paragraph 4, of the 1978 Rules of Court, a certified copy of the relevant Application will be immediately transmitted to the Governments concerned.

(Signed) Santiago TORRES BERNÁRDEZ.

3. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES ET DES CULTES
DU COSTA RICA

28 juillet 1986.

Comme suite à mon télex² de ce jour, j'ai l'honneur de confirmer à Votre Excellence que le Gouvernement de la République du Nicaragua a déposé aujourd'hui, 28 juillet 1986, à 10 heures du matin, au Greffe de la Cour internationale de Justice, à La Haye, une requête introduisant une instance contre le Gouvernement de la République du Costa Rica.

Votre Excellence voudra bien trouver ci-joint, conformément aux articles 40, paragraphe 2, du Statut et 38, paragraphe 4, du Règlement de la Cour, copie certifiée conforme de ladite requête. Je lui ferai prochainement parvenir d'autres exemplaires de la requête en question, dans l'édition imprimée, établie par les soins du Greffe, qui en contiendra également la traduction en langue française.

Je saisis cette occasion pour attirer l'attention de Votre Excellence sur l'article 40 du Règlement de la Cour qui dispose, à son paragraphe 2, que dès la réception de la copie certifiée conforme de la requête ou le plus tôt possible après, le défendeur fait connaître à la Cour le nom de son agent. Le paragraphe 1 du même article dispose que les agents doivent avoir au siège de la Cour un domicile élu auquel sont adressées toutes les communications relatives à l'affaire.

¹ Not reproduced.

² Non reproduit.

4. THE REGISTRAR TO THE SECRETARY-GENERAL
OF THE UNITED NATIONS

28 July 1986.

With reference to my telex message¹ transmitted to you today, I have the honour to communicate to you herewith a copy of the Application instituting proceedings against the Republic of Costa Rica filed by the Government of the Republic of Nicaragua in the Registry of the Court at 10 a.m. on 28 July 1986. The usual printed bilingual edition is in preparation, and copies will be supplied to you as soon as possible with a view to the notification contemplated by Article 40, paragraph 3, of the Statute of the Court.

5. THE MINISTER FOR EXTERNAL RELATIONS AND ECCLESIASTICAL MATTERS OF
COSTA RICA TO THE REGISTRAR

12 August 1986.

I have the honour to acknowledge receipt of your letter dated 28 July 1986 as well as the certified copy of the Application presented by the Republic of Nicaragua before that Court instituting proceedings against the Republic of Costa Rica.

The Government of Costa Rica has taken due note of this Application and has started to take all the necessary steps to prepare its defense.

To comply with Article 40, paragraph 2, of the Rules of the Court, we are in the process of selecting our Agent. In the course of the month of August, we will be in a position to indicate to the Court the name of our Agent, as well as the address in The Hague to receive notifications and communications in regard to this affair.

In acknowledging receipt of the Application presented by the Republic of Nicaragua, I would like to inform the Court that the Government of Costa Rica reserves the right to present, in due course, a counter-claim against the Republic of Nicaragua, as authorized by Article 80 of the Rules of the Court.

(Signed) Rodrigo MADRIGAL NIETO.

6. THE REGISTRAR TO THE AGENT OF NICARAGUA

18 August 1986.

With reference to the Application instituting proceedings filed by the Republic of Nicaragua in the Registry of the Court on 28 July 1986, I have the honour to transmit to you herewith a copy of a letter in Spanish¹, to which an English text is annexed, from the Minister of External Relations of the Republic of Costa Rica. The letter is dated 12 August 1986.

¹ Not reproduced.

7. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

21 août 1986.

Le 28 juillet 1986 a été déposée au Greffe de la Cour internationale de Justice une requête par laquelle la République du Nicaragua a introduit contre la République du Costa Rica une instance en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*.

J'ai l'honneur, à toutes fins utiles, de vous transmettre ci-joint un exemplaire de cette requête.

8. THE DIRECTOR-GENERAL OF THE MINISTRY OF EXTERNAL RELATIONS AND ECCLESIASTICAL MATTERS OF COSTA RICA TO THE REGISTRAR

(telex)

1 September 1986.

No. 851-86-dgm. I have the honour to notify the Court that the Government of Costa Rica has appointed Mr. Edgar Ugalde as its Agent in accordance with Article 40, paragraph 2, of the Rules of Court as stated in the Minister's letters of 12 August. For notifications and communications we have selected the following addresses:

The Hague:

Paul Just de la Paisières
Consul of Costa Rica
Meloestraat No. 122
The Hague, Netherlands

Cable: CONSULRICA

Telephone: 070-254857

Rotterdam:

Salomon Jean René de Monchy
Consul-General
Meent 106
P.O. Box 762-3000 at Rotterdam

Cable: CONGERICA

Telephone: 010-130320
010-120210

Mr. Ugalde shall notify the Court of any changes thereof should the case arise.

By airmail our Foreign Minister Mr. Rodrigo Madrigal Nieto formally notified you of the above in letter dated August 29.

(Signed) Alvar ANTILLON SALAZAR.

¹ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Cour.

9. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

3 September 1986.

I have the honour to inform you that by a telex message received in the Registry yesterday, the Government of Costa Rica has informed the Court of the appointment of Mr. Edgar Ugalde as its Agent in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*. The Agent's address for service at the seat of the Court is as follows:

c/o Mr. Paul Just de la Paisières
Consul of Costa Rica
Meloestraat 122
The Hague
Telephone: 070-254857
Cable address: CONSULRICA

The Government of Costa Rica has also indicated as an alternative address, in case of need, that of the Consul-General of Costa Rica in the Netherlands, Mr. Salomon Jean René de Monchy, Meent 106, P.O. Box 762-3000, Rotterdam, telephone 010-130320 or 120210, and cable address: CONGERICA.

(Signed) Eduardo VALENCIA-OSPINA.

10. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES
DES PAYS-BAS

18 septembre 1986.

Me référant au paragraphe V des principes généraux de l'accord du 26 juin 1946 entre le Gouvernement des Pays-Bas et la Cour internationale de Justice, j'ai l'honneur de porter à votre connaissance qu'en l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)* le Gouvernement du Nicaragua a désigné comme agent S. Exc. M. Carlos Argüello Gómez, ambassadeur à La Haye. De son côté, le Gouvernement du Costa Rica a désigné comme agent S. Exc. M. Edgar Ugalde Alvarez, ambassadeur.

11. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA¹

23 September 1986.

I have the honour to inform Your Excellency that the President of the Court, pursuant to Article 31 of the Rules of Court, wishes to receive the Agents of the Parties to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* at 11 a.m. on Friday 17 October 1986, for the purpose of ascertaining their views with regard to questions of procedure in the case.

¹ A communication in the same terms was sent to the Agent of Costa Rica.

12. THE REGISTRAR TO THE AGENT OF COSTA RICA¹

22 October 1986.

I have the honour to inform you that by an Order² dated 21 October 1986, the Court has fixed the following time-limits for the written proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

For the Memorial of the Republic of Nicaragua: 21 July 1987.

For the Counter-Memorial of the Republic of Costa Rica: 21 April 1988.

The subsequent procedure including the date for the opening of oral proceedings is reserved for further decision. I enclose the official sealed copy of the Order.

13. LE GREFFIER AU MINISTRE DES RELATIONS EXTÉRIEURES DU BRÉSIL³

3 novembre 1986.

Par lettres du 21 août 1986, j'ai eu l'honneur de vous communiquer un exemplaire de chacune des deux requêtes introductives d'instance présentées à la Cour par la République du Nicaragua contre la République du Costa Rica et la République du Honduras, respectivement, dans les affaires des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)* et *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*.

J'ai maintenant l'honneur de vous informer, premièrement, que, par ordonnance du 21 octobre 1986, la Cour a fixé comme suit les délais pour le dépôt des pièces de la procédure écrite dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*:

Pour le mémoire de la République du Nicaragua: le 21 juillet 1987.

Pour le contre-mémoire de la République du Costa Rica: le 21 avril 1988.

Deuxièmement, par ordonnance du 22 octobre 1986, la Cour a fixé comme suit les délais pour le dépôt des pièces de la procédure écrite relatives aux questions de la compétence de la Cour et de la recevabilité de la requête dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Honduras)*:

Pour le mémoire de la République du Honduras: le 23 février 1987.

Pour le contre-mémoire de la République du Nicaragua: le 22 juin 1987.

Dans les deux cas, la Cour a réservé la suite de la procédure (c'est-à-dire en particulier le déroulement de la procédure orale).

Le texte imprimé des ordonnances vous sera communiqué sous peu.

Enfin, j'ai reçu pour instructions, conformément à l'article 43 du Règlement de la Cour, d'appeler votre attention sur le fait que, dans les deux requêtes, la République du Nicaragua invoque notamment le traité américain de règlement

¹ A communication in the same terms was sent to the Agent of Nicaragua.

² *I.C.J. Reports 1986*, p. 548.

³ La même communication a été adressée aux Etats suivants: Chili, Colombie, Haïti, Mexique, Pérou, République dominicaine et Uruguay.

pacifique (pacte de Bogotá) conclu à la neuvième conférence internationale des Etats américains en 1948. Il me faut ajouter cependant que la présente notification ne préjuge aucune décision que la Cour pourrait être appelée à prendre en application de l'article 63 du Statut.

14. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

11 November 1986.

I have the honour to inform Your Excellency that, pursuant to Article 43 of the Rules of Court, I was recently instructed by the Court to draw to the notice of the parties to the American Treaty on Pacific Settlement (Pact of Bogotá) concluded at the Ninth International Conference of American States in 1948, the fact that the Republic of Nicaragua invokes, *inter alia*, that treaty in its Application instituting proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

The relevant notifications were carried out by letters dated 3 November 1986.

15. THE AGENT OF COSTA RICA TO THE REGISTRAR

12 November 1986.

I have the honor to inform you, in reference to the Press Release² number 86/13 and in accordance to the terms of the meeting held at The Hague last October 17 to fix the time-limits for the written proceedings, that the Government of Costa Rica confirms that it fully accepts the jurisdiction of the Court and consequently does not intend to challenge said jurisdiction in this case.

However, this does not preclude the possibility that preliminary objections against the Application submitted by Nicaragua on 28 July 1986, other than those opposing the Court's jurisdiction, might eventually be raised by the Government of Costa Rica at the appropriate time and in conformity with Article 79 of the Rules.

(Signed) Edgar UGALDE ALVAREZ.

16. LE GREFFIER AU SECRÉTAIRE AUX RELATIONS EXTÉRIEURES
DU HONDURAS

20 novembre 1986.

J'ai l'honneur de me référer à la lettre du 21 août 1986 par laquelle je vous ai communiqué un exemplaire de la requête introductive d'instance présentée à la Cour par la République du Nicaragua contre la République du Costa Rica

¹ A communication in the same terms was sent to the Agent of Costa Rica.

² Not reproduced.

en l'affaire concernant des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*, ainsi qu'à l'ordonnance en date du 21 octobre 1986 par laquelle la Cour, tout en réservant la suite de la procédure, a fixé comme suit les dates d'expiration des délais pour le dépôt des pièces écrites en cette affaire: pour le mémoire du Nicaragua, le 21 juillet 1987; pour le contre-mémoire du Costa Rica, le 21 avril 1988. Vous trouverez ci-joint un exemplaire de cette ordonnance.

J'ai reçu pour instructions, conformément à l'article 43 du Règlement de la Cour, d'appeler votre attention sur le fait que, dans sa requête, la République du Nicaragua invoque notamment le traité américain de règlement pacifique (pacte de Bogotá) conclu à la neuvième conférence internationale des Etats américains en 1948. Il me faut ajouter cependant que la présente notification ne préjuge aucune décision que la Cour pourrait être appelée à prendre en application de l'article 63 de son Statut.

17. THE REGISTRAR TO THE AGENT OF COSTA RICA

21 November 1986.

I have the honour to acknowledge receipt of Your Excellency's letter of 12 November 1986 recalling the possibility of your Government's raising preliminary objections, at the appropriate time and in conformity with Article 79 of the Rules of Court, in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

I am transmitting a copy of your letter to the Agent of Nicaragua in the aforesaid case.

18. THE MINISTER *a.i.* FOR EXTERNAL RELATIONS AND ECCLESIASTICAL MATTERS OF COSTA RICA TO THE REGISTRAR

(telex)

2 December 1986.

I have the honour to inform the Court that our Government has decided to appoint Dr. Raúl Trejos Flores, as Co-Agent of the Republic of Costa Rica in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* (1986, General List No. 73).

Please accept, Sir, the assurances of my highest consideration.

(Signed) Carlos RIVERA BIANCHINI.

19. THE REGISTRAR TO THE AGENT OF NICARAGUA

3 December 1986.

I have the honour to inform you that by a telex message received today in the Registry, the Government of Costa Rica has informed the Court of the appoint-

ment of Dr. Raúl Trejos Flores as its Co-Agent in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

20. LE GREFFIER AU MINISTRE DES AFFAIRES ÉTRANGÈRES
DES PAYS-BAS

11 décembre 1986.

Me référant au paragraphe V des principes généraux de l'accord du 26 juin 1946 entre le Gouvernement des Pays-Bas et la Cour internationale de Justice, j'ai l'honneur de porter à votre connaissance qu'en l'affaire des *Actions frontalières et transfrontalières (Nicaragua c. Costa Rica)* le Gouvernement du Costa Rica a désigné M. Raúl Trejos Flores comme coagent.

21. THE REGISTRAR TO THE MINISTER FOR FOREIGN AFFAIRS
OF THE NETHERLANDS

12 June 1987.

With reference to my predecessor's letter 77044 of 11 December 1986, I have the honour to advise Your Excellency that, as I have been informed, the Co-Agent of Costa Rica in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, Mr. Raúl Trejos Flores, and Mrs. Nair Baptiste Pereira Trejos, are at present in The Hague and have taken up residence at Offenberglaan 1, Flat 25A, Marlot, The Hague (tel. 853253).

I am confident that, in connection with the residence of Mr. Trejos and his wife, Your Excellency will be extending to them every privilege, immunity and facility consonant with paragraph 5 of the general principles set out in the appendix to the exchange of letters between your predecessor and the then President of the Court on 26 June 1946.

(Signed) Eduardo VALENCIA-OSPINA.

22. THE AGENT OF COSTA RICA TO THE REGISTRAR

22 June 1987.

I have the honour to inform the Court that my Government has established provisional offices in The Hague and has a new address in this city for service, where all communications concerning our pending case before that Court should be delivered.

The new address is:

Lange Voorhout 58,
2514 EG 's-Gravenhage.
Telephone: 46 96 60.
Telex No.: 32561 (Hague NL).

23. THE AGENT OF NICARAGUA TO THE REGISTRAR

(telex)

16 July 1987.

Confirming our telephone conversation earlier today, for technical reasons I have requested that the Court grant Nicaragua an extension of time until 10 August 1987 for the filing of its Memorial on the merits in the case of *Nicaragua v. Costa Rica*. Naturally I would consent to a similar extension of time for the submission of Costa Rica's Memorial.

(Signed) Carlos ARGÜELLO GÓMEZ.

24. THE PRINCIPAL LEGAL SECRETARY OF THE COURT TO THE AGENT
OF COSTA RICA

17 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a telex message received this morning from the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, requesting an extension to 10 August 1987 of the time-limit for the filing of the Memorial of Nicaragua.

In accordance with Article 44, paragraph 3, of the Rules of Court, I shall be obliged if Your Excellency would furnish the Court as soon as possible with the views of the Government of Costa Rica on this request.

(Signed) H. W. A. THIRLWAY.

25. THE AGENT OF COSTA RICA TO THE REGISTRAR

21 July 1987.

I have the honour to acknowledge receipt of the letter No. 78252 of 17 July transmitting copy of a telex message received in the Court by the Agent of Nicaragua requesting an extension to 10 August 1987 of the time-limit for the filing of his country's Memorial in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* and requesting the views of the Government of Costa Rica on that request.

The Government of Costa Rica wishes to state its surprise for this attitude of the Government of Nicaragua which differs entirely with the views that said Government expressed and strongly defended in the meeting held on 17 October 1986 convened by the President of the Court in accordance with Article 31 of the Rules of the Court.

In that meeting of 17 October 1986, the Government of Nicaragua opposed the position of Costa Rica when requested long terms for the filing of pleadings, in particular its Counter-Memorial. This contrast of positions of the Government of Nicaragua is a motive of concern for the Government of Costa Rica

because it gives grounds to consider that the case now before the International Court of Justice is being utilized by the Government of Nicaragua for political purposes, in view of the forthcoming meeting of the Presidents of Central America that will be held in Guatemala on 6-7 August 1987. And in consideration of the high esteem and respect that our Government has for the International Court of Justice, Costa Rica strongly opposes any attempt on the part of Nicaragua to make use of the case before that High International Tribunal for political purposes.

The Government of Costa Rica suspects that the request for an extension of the time-limit for filing the Memorial as presented by the Honourable Agent of Nicaragua could constitute a manoeuvre that could be utilized as political pressure in the Meeting of Presidents of Central America, with the intent of deleting the democratization aspects contained in the Plan of Peace of the President of Costa Rica, to which aspect Nicaragua is opposed.

In spite of the above considerations, the Government of Costa Rica is not opposed to the extension of the time-limit for the filings of the Memorial that has requested the Honourable Agent of the Republic of Nicaragua.

26. THE REGISTRAR TO THE AGENT OF NICARAGUA

21 July 1987.

I have the honour to refer to Your Excellency's telex message received on 17 July 1987, requesting an extension of the time-limit for the filing of the Memorial of the Republic of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and to send you herewith a copy of a letter dated 21 July 1987, and received in the Registry today, from the Agent of Costa Rica, setting out the views of his Government on that request.

After considering the request and the views of the Government of Costa Rica, the Vice-President of the Court, Acting President, has decided to extend the time-limit for the filing of the Memorial of Nicaragua to 10 August 1987 and the time-limit for the filing of the Counter-Memorial of Costa Rica to 2 June 1988. The appropriate Order¹ to that effect will be transmitted to you shortly.

27. THE REGISTRAR TO THE AGENT OF COSTA RICA

21 July 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of 21 July 1987, setting out the views of the Government of Costa Rica on the request made by the Government of Nicaragua for an extension of the time-limit for the filing of the Memorial of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

After considering the request and the views of the Government of Costa Rica, the Vice-President of the Court, Acting President, has decided to extend the

¹ *I.C.J. Reports 1987*, p. 179.

time-limit for the filing of the Memorial of Nicaragua to 10 August 1987 and the time-limit for the filing of the Counter-Memorial of Costa Rica to 2 June 1988. The appropriate Order to that effect will be transmitted to you shortly.

28. THE REGISTRAR TO THE SECRETARY GENERAL OF THE ORGANIZATION OF AMERICAN STATES

21 July 1987.

I have the honour to inform you that in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)*, brought before the Court by Nicaragua, one of the bases of jurisdiction for the Court relied on by Nicaragua is Article XXXI of the American Treaty on Pacific Settlement (Pact of Bogotá) concluded at the Ninth International Conference of American States in 1948. Honduras has however contended, *inter alia*, that Article XXXI of that Treaty cannot be invoked as a basis of jurisdiction independently of Article XXXII, and that the latter Article precludes any unilateral application to the Court except on certain conditions which, in the view of Honduras, are not satisfied in this case. The proceedings therefore appear to raise questions of construction of the Pact of Bogotá.

The Court has directed that the initial pleadings in the case be directed to questions of jurisdiction and admissibility, and those pleadings have now been filed; on 20 October 1987 oral proceedings will open, with a view to a judgment being given by the Court on those questions.

Article 34, paragraph 3, of the Statute of the Court provides as follows:

"3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings."

The Pact of Bogotá appears to fall in the category of conventions contemplated by this Article, since it provides in its preamble as follows:

"In the name of their peoples, the Governments represented at the Ninth International Conference of American States have resolved, *in fulfillment of Article XXIII of the Charter of the Organization of American States*, to conclude the following Treaty: . . ." (Emphasis added.)

In these circumstances the Court has instructed me to communicate to the Organization of American States copies of all the written proceedings. I accordingly have the honour to enclose herewith copies of the Application instituting proceedings, the Memorial submitted by the Government of Honduras, and the Counter-Memorial submitted by the Government of Nicaragua, together with the annexes to those pleadings.

This instruction was given pursuant to Article 69, paragraph 3, of the Rules of Court, which is in the following terms:

"3. In the circumstances contemplated by Article 34, paragraph 3, of the Statute, the Registrar, on the instructions of the Court, or of the President

if the Court is not sitting, shall proceed as prescribed in that paragraph. The Court, or the President if the Court is not sitting, may, as from the date on which the Registrar has communicated copies of the written proceedings and after consulting the chief administrative officer of the public international organization concerned, fix a time-limit within which the organization may submit to the Court its observations in writing. These observations shall be communicated to the parties and may be discussed by them and by the representative of the said organization during the oral proceedings."

The Vice-President of the Court, Acting President, has directed me further to ask you to inform me as soon as possible whether the Organization of American States would wish to submit to the Court observations on the matter in accordance with Article 69, paragraph 3, of the Rules of Court, and to inform you that he has fixed 20 September 1987 as the time-limit within which such observations may be filed.

Furthermore, I should inform you that Nicaragua has also instituted proceedings against the Republic of Costa Rica (*Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*), and one of the bases of jurisdiction relied on in these proceedings also is Article XXXI of the Pact of Bogotá. However, the Government of Costa Rica has not yet indicated whether or not it contests the claim of Nicaragua to the existence of jurisdiction on that basis, and it therefore appears premature to say whether a question of construction of Article XXXI will arise in that case as well. I enclose for your information a copy of the Application in that case and of the Orders made by the Court on both cases.

Finally, for the sake of completeness, I should also draw your attention to the fact that in its Applications in these two cases Nicaragua asserts that Honduras and Costa Rica have committed breaches of the Charter of the OAS and of the Pact of Bogotá. These allegations may also raise questions of construction of those two instruments, but, in the proceedings brought against Honduras at least, the Court will only be called upon to examine such allegations if it is satisfied that it has jurisdiction, a point which, as indicated, forms the subject of the initial stage of those proceedings.

29. THE REGISTRAR TO THE AGENT OF NICARAGUA

21 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter I have today sent to the Secretary General of the Organization of American States, referring to the cases concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

30. THE REGISTRAR TO THE AGENT OF COSTA RICA

21 July 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter I have today sent to the Secretary General of the Organization of American States. This letter relates primarily to the case concerning *Border and Trans-*

border Armed Actions (Nicaragua v. Honduras), but as you will observe, reference is also made to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

31. THE SECRETARY GENERAL OF THE ORGANIZATION OF AMERICAN STATES TO THE REGISTRAR

29 July 1987.

I am pleased to acknowledge receipt of your note 78281, dated July 21, 1987, enclosing a copy of all the written proceedings on the case concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* brought before the International Court of Justice by Nicaragua.

As to whether or not the Organization of American States wishes to submit to the Court observations on the matter, I am of the opinion that, in this case, the Secretary General would not have the authority to make such observations.

Furthermore, the convening of the Permanent Council of the Organization on this matter would require that each Member State be provided with copies of all the written proceedings on the case which may contravene the Rules of the Court.

On the other hand, it is my understanding that the Court has already notified all the other parties to the American Treaty on Pacific Settlement (Pact of Bogotá) on the fact that these proceedings appear to raise questions of the construction of this Pact.

(Signed) João Clemente BAENA SOARES.

32. THE REGISTRAR TO THE AGENT OF NICARAGUA

3 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 29 July 1987 and handed to me today by the Legal Adviser of the Organization of American States containing the reply of the Secretary General of the OAS to my letter of 21 July 1987 referring to the cases concerning *Border and Transborder Armed Actions (Nicaragua v. Honduras)* and *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

33. THE REGISTRAR TO THE AGENT OF COSTA RICA

3 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 29 July 1987 and handed to me today by the Legal Adviser of the Organization of American States containing the reply of the Secretary General of the OAS to my letter of 21 July 1987 referring to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

34. THE AGENT OF NICARAGUA TO THE REGISTRAR

10 August 1987.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

By Order of the Vice-President of the Court, Acting President, the time-limit for the filing of Nicaragua's Memorial was extended until this August 10, 1987. In compliance with this Order, I proceed to file Nicaragua's Memorial.

35. THE AGENT OF NICARAGUA TO THE REGISTRAR

10 August 1987.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

The Court requested the views of the Government of Costa Rica on the petition made by the Government of Nicaragua that the time-limit for the filing of its Memorial be extended until August 10, 1987.

The Government of Costa Rica by means of a letter dated July 21, 1987 set out its views on the request made by the Government of Nicaragua.

The letter indicates that Nicaragua's request

"gives ground to *consider* that the case now before the International Court of Justice is being utilized by the Government of Nicaragua for political purposes . . .",

and further adds that

"The Government of Costa Rica *suspects* that the request for an extension . . . could constitute a manoeuvre that could be utilized as political pressure in the (forthcoming) Meeting of Presidents of Central America, with the intent of deleting the democratization aspects contained in the Plan of Peace of the President of Costa Rica, to which Nicaragua is opposed."

The Government of Nicaragua denies any merit to the considerations and suspicions set out by Costa Rica in the letter in reference.

Furthermore, Nicaragua wishes to point out that the Costa Rican authorities themselves had manifested their pre-occupation with the fact that the filing of the Memorial of Nicaragua just a few days before the meeting of Presidents could damage the atmosphere of fraternity and mutual trust that should characterize that meeting in order to achieve agreements that would foster peace in Central America.

For this reason, the Minister of Foreign Affairs of Nicaragua personally explained to the Costa Rican authorities that the extension of the time-limit for the presentation of Nicaragua's Memorial, would also have the effect of eliminating the worries voiced by Costa Rica.

In any case, the fact that Nicaragua is filing its Memorial today in fulfillment of its obligations, is adequate proof of Nicaragua's respect for the International Court of Justice and the serenity with which it performs its international responsibilities.

Finally, Costa Rica's "suspicions" are not legal concepts that can be adequately addressed in the present instance. It might be added that even in the instance of political negotiations the voicing of "suspicions" prior to discussions is not precisely conducive to an adequate atmosphere for reaching agreements.

In this instance — and much less in this letter — we cannot begin to address Nicaragua's position on the Peace Plan of the President of Costa Rica. All we can say is that Nicaragua demands what Latin America has demanded for decades and what has given rise to the main contributions of Latin America to international law: respect for its sovereignty and non-intervention in its internal affairs.

Lastly, since this letter is written after the meeting of the Central American Presidents we can say — certainly with hindsight but nonetheless truthfully — that the will of Nicaragua is to reach peace in Central America.

36. THE REGISTRAR TO THE AGENT OF NICARAGUA

10 August 1987.

I have the honour to acknowledge the filing today of the Memorial of Your Excellency's Government in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* together with a certified copy, which has been transmitted to the Agent of Costa Rica, four volumes of Annexes, one set of which has likewise been transmitted to that Agent, and a number of plain copies of both the Memorial and its Annexes.

I also acknowledge the receipt of two letters bearing today's date, one of which constituted a letter of transmittal in regard to the Memorial. A copy of each of these letters has been conveyed to the Agent of Costa Rica.

Note has been taken that translation work is proceeding with a view to full compliance with Article 51 (3) of the Rules of Court. It will be appreciated if the requisite translations into an official language of the Court are supplied as soon as possible together with the appropriate certification of their accuracy.

37. THE REGISTRAR TO THE AGENT OF COSTA RICA

10 August 1987.

I have the honour to transmit to Your Excellency herewith a certified copy of the Memorial filed today in the Registry by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, of the four volumes of annexes furnished therewith and of the accompanying letter of transmittal.

The attention of the Agent of Nicaragua has been drawn to the fact that translations of certain documents of which only the Spanish text has been supplied will have to be provided in accordance with Article 51 (3) of the Rules of Court. It is understood that the work of translation has been put in train.

Further copies of the Memorial and Annexes will be supplied very shortly for your use.

38. THE REGISTRAR TO THE AGENT OF COSTA RICA

10 August 1987.

I have the honour to transmit herewith to Your Excellency a copy of a letter of today's date in which the Agent of Nicaragua in the case concerning the *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* presents the observations of his Government on the views set out by the Government of Costa Rica on 21 July 1987.

This letter was handed to me by the Agent of Nicaragua concurrently with the filing of his Government's Memorial in the case.

39. THE AGENT OF NICARAGUA TO THE REGISTRAR

11 August 1987.

I have the honour to refer to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

The Minister of Foreign Affairs of Nicaragua, Father Miguel D'Escoto Brockmann, has given me instructions as Agent of Nicaragua in the case in reference, to file before the Court the letter of this same date addressed to the President of the Court which I enclose herewith.

This letter was written in Spanish¹ and a translation into English² is also accompanied. The document mentioned in the letter, that is the agreement¹ signed by the five Central American Presidents in Guatemala, is accompanied in its original Spanish language and a translation will be prepared and sent to the Court as soon as possible. In all events, this document is well known by the other party and the lack of an immediate translation will presumably not cause any unnecessary delays for them.

Annex

Managua, August 11, 1987.

Mr. President:

In an effort to reach the pacific solution of the situation of aggression that Nicaragua is undergoing, and aware that "peace is the respect of the right of others", the Government of Nicaragua came before the International Court of Justice, the highest tribunal in the world, in order to denounce that the most sacred principles and rules of international law that govern the relations among sovereign states, were being systematically and dangerously violated by Costa Rica, through this country's active participation in the military and paramilitary activities of the United States against Nicaragua, which had been condemned by the International Court of Justice in its historic decision of June 27, 1986.

Nevertheless, parallel to the efforts that Nicaragua had been making in the substantiation of its application against Costa Rica, and also previously to the introduction of the application, Nicaragua continued to seek through legal

¹ Not reproduced.

² See Annex to this communication.

means, a situation of respect for international law, that would guarantee the legitimate national interests of Nicaragua and would remove the threat of war in the Central American region.

These efforts have resulted in a regional agreement, signed in the city of Guatemala last August 7, under the title of "procedures for bringing about a stable peace in Central America", a copy of which we attach herewith.

This agreement, in its section 5, "termination of aid to irregular forces or insurrectional movements", and in its section 6, "non use of the territory for the aggression of other states", establishes serious obligations, freely signed and undertaken by the five presidents of the Central American area, among them the President of Costa Rica, Oscar Arias Sánchez. Through, the enforcement of these obligations, Costa Rica would strictly and faithfully comply with the international commitments that they have been violating in their relations with Nicaragua and that constituted the object of the application introduced by Nicaragua before this high tribunal.

Section 5 of the regional agreement literally states, among other obligations, the following:

"The governments of the five Central American States will request the governments of the region and the governments outside the region that, openly or covertly give military, logistical, financial or propaganda assistance or aid in men, armaments, munitions or equipment to irregular forces or insurrectional movements, that this aid be stopped, as an indispensable element in order to obtain a stable and lasting peace in the region."

It is obvious that this commitment of the Central American Governments implies that, in the first place, it must be the Central American Governments themselves that must put an end to any type of aid and support that they give to the irregular forces and insurrectional movements.

On the other hand, section 6 commits all the Governments of the region that have signed the agreement to

"stopping the use of their own territory and not to give or permit to be given any military logistical support to persons, organizations or groups that attempt to destabilize the governments of the countries of Central America".

The strict and faithful compliance of these commitments would satisfy the main objective sought by Nicaragua when it introduced its application against Costa Rica on July 28, 1986. That objective, as has insistently been pointed out by Nicaragua, was and continues to be peace, by means of restoring respect for international law. Guaranteeing peace between Costa Rica and Nicaragua, by means of law and justice, has been the reason behind Nicaragua's application.

The Government of Nicaragua considers that the regional agreement signed by the presidents of Central America in the meeting known as "Esquipulas II", constitutes a transcendental and historical occurrence because of the obligation accepted of "wholly assuming the historical challenge of forging a destiny of peace for Central America".

In order to obtain the execution of that regional agreement, it was imperative that there was the political will, a great faith and the disposition of certain Governments to trust other Governments. This last element, the trust in the good faith compliance of the obligations assumed, was particularly necessary in the case of Nicaragua, a nation faced with a cruel and inhuman war of aggression, that has been made possible by the active participation of neighbouring

countries, that have been giving all type of facilities and support and have involocrated themselves in the war of aggression against Nicaragua, as is evidenced in the Memorial filed this August 10 in the case against Costa Rica.

Within the spirit and will of continuing to foster in all things possible the cause of peace in Central America, Nicaragua wishes to abstain from any action, no matter how legitimate, that could clog the atmosphere of mutual trust useful to the full compliance of all the obligations undertaken in the presidential agreement of "Esquipulas II", in particular those referring to not permitting the use of the territory for activities of any type aimed at the destabilization or overthrow of the Governments of the region. With this objective, Nicaragua wishes the suspension of the proceedings in the case submitted against Costa Rica in the International Court of Justice, if and only said country does not oppose this suspension.

Acting with reponsibility and good faith, Nicaragua trusts that the compliance of Costa Rica with the commitments undertaken by the Presidents of Central America in Guatemala, will satisfy the just demands it made in its application against Costa Rica. Full compliance with these commitments would fully satisfy Nicaragua and adequately fulfill the aims sought in its judicial recourse. In spite of the grave international responsibilities incurred by Costa Rica by its illicit conduct, it has not been the main objective of Nicaragua to obtain the condemnation of this country, but to put a stop to the war of aggression that the people of Nicaragua are suffering.

The Government of Nicaragua recognizes in the International Court of Justice a fundamental proceeding for peace amongst peoples and nations. Recourse to this high tribunal has meant a clear and invaluable support to the cause of peace in Central America and the strengthening of the international juridical order. Nicaragua will continue putting its faith in the Court as the proceeding par excellence for the pacific solution of controversies. Nicaragua also trusts that Costa Rica will accept to bring before this Court, the controversies which in the future may occur in its relations with Nicaragua. The Government of Nicaragua for its part, maintains its firm disposition of continuing to have recourse to these means of pacific solution in all those situations that merit it.

I avail myself of this occasion, Mr. President, to renew the assurances of my highest consideration.

Miguel D'Escoto Brockmann,
Minister of Foreign Affairs.

40. THE REGISTRAR TO THE AGENT OF NICARAGUA

11 August 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of today addressed to me, together with a copy of a communication dated also 11 August 1987, drafted in Spanish and translated into English, addressed to the President of the International Court of Justice by the Minister for Foreign Affairs of Nicaragua as well as a copy, in the original Spanish, of the Agreement signed at Guatemala City on 7 August 1987 by the Presidents of five Central American States.

The documents mentioned above have been brought to the attention of the President of the Court and copies thereof have been transmitted immediately to

the Agent of Costa Rica in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* under cover of a letter copy of which I am also enclosing herewith.

41. THE REGISTRAR TO THE AGENT OF COSTA RICA

11 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter handed to me today by the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*. This letter was accompanied by a copy of a communication dated also 11 August 1987, drafted in Spanish and translated into English, addressed to the President of the Court by the Minister for Foreign Affairs of Nicaragua, together with a copy in the original Spanish of the Agreement signed at Guatemala City on 7 August 1987 by the Presidents of five Central American States. I am also transmitting herewith copies of the above-mentioned documents.

May I draw Your Excellency's attention to the passage in the letter of the Foreign Minister of Nicaragua whereby he indicates that his country "wishes the suspension of the proceedings in the case submitted against Costa Rica in the International Court of Justice, if and only said country does not oppose this suspension".

42. THE AGENT OF NICARAGUA TO THE REGISTRAR

12 August 1987.

I have the honour to refer to the case concerning "*Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*".

With the purpose of giving Costa Rica an opportunity to comply fully and faithfully with the Agreements of Esquipulas II, in the atmosphere of fraternity that should distinguish this regional peace process, Nicaragua discontinues the judicial procedures instituted against Costa Rica in the International Court of Justice on July 28, 1986.

Accordingly, the Government of Nicaragua respectfully requests the Court to take the necessary steps to implement this request.

43. THE REGISTRAR TO THE AGENT OF NICARAGUA

12 August 1987.

I have the honour to acknowledge receipt of your communication dated 12 August 1987, giving notice of discontinuance of the proceedings instituted on 28 July 1986 by the Republic of Nicaragua against the Republic of Costa Rica and "requesting the Court to take the necessary steps to implement its request".

I also have the honour to inform you that I have today transmitted a certified copy of your above-mentioned communication to the Agent of the other Party by means of a letter, of which a copy is enclosed herewith, indicating that the

President of the Court, pursuant to Article 89, paragraph 3, of the Rules of Court, has fixed on Tuesday 18 August 1987 at 6 p.m. the time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings, as prescribed in paragraph 2 of that Article.

44. THE REGISTRAR TO THE AGENT OF COSTA RICA

12 August 1987.

With reference to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and further to my letter of 11 August 1987, I have the honour to transmit herewith a certified copy of a communication of today's date from the Agent of the Republic of Nicaragua, giving notice of discontinuance of the proceedings instituted on 28 July 1986 by the Republic of Nicaragua against the Republic of Costa Rica, and "requesting the Court to take the necessary steps to implement this request".

I also have the honour to inform you that the President of the Court, pursuant to Article 89, paragraph 3, of the Rules of Court, has fixed on Tuesday 18 August 1987 at 6 p.m. the time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings, as prescribed in paragraph 2 of that Article.

A copy of this letter is being despatched to the Agent of the Republic of Nicaragua.

45. L'AMBASSADEUR DU HONDURAS AUX PAYS-BAS AU GREFFIER

13 août 1987.

J'ai l'honneur de porter à votre connaissance le désir du Gouvernement du Honduras de recevoir les pièces de procédure écrite dans l'affaire des *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*.

En conformité avec l'article 53, paragraphe 1, du Règlement, je vous prie d'avoir l'obligeance de saisir la Cour de cette demande.

(Signé) Mario CARÍAS.

46. THE REGISTRAR TO THE AGENT OF NICARAGUA¹

14 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter, dated 13 August 1987 and received in the Registry today, by which the Government of Honduras requests, pursuant to Article 53, paragraph 1, of the Rules of Court, that copies of the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* be made available to it. In accordance with that provision, I shall be obliged if Your Excellency will inform me of the views of the Government of Costa Rica in this respect.

¹ A communication in the same terms was sent to the Agent of Costa Rica.

47. THE AGENT OF COSTA RICA TO THE REGISTRAR

18 August 1987.

I have the honour of referring to the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

1. On 12 August 1987, the Government of Nicaragua expressed to the International Court of Justice its unilateral and voluntary decision to discontinue the unfounded action brought by it against Costa Rica on 28 July 1986 and formalized on 10 August 1987, despite the fact it had announced it would not proceed with the case. In its petition, the Government of Nicaragua requested that the Court take the necessary steps to implement the discontinuance.

2. By an order dated also on 12 August 1987, the President of the Court, making use of the powers conferred on him in Article 89 (3) of the Rules, granted Costa Rica a time-limit, ending on 18 August 1987 at 18:00 hours, within which to state whether it opposes the discontinuance of the proceedings.

3. Within the time-limit fixed for this purpose, the Government of Costa Rica states that it does not oppose the discontinuance of the unjust action brought before the Court by the Government of Nicaragua.

4. However, said Government alleges that it has decided to discontinue the proceedings against my Government :

“With the purpose of giving Costa Rica an opportunity to comply fully and faithfully with the Agreements of Esquipulas II, in the atmosphere of fraternity that should distinguish this regional peace process . . .”

5. Although the Government of Costa Rica agrees to the discontinuance of the inadmissible action brought by Nicaragua, it cannot tolerate, under any circumstances, that the arguments set forth by the applicant Government for putting an end to a proceeding which never should have begun, be left without an adequate answer. In any case, Nicaragua would have lost its case, because its action is based on allegations which are supported neither by facts nor by law.

6. The Government of Nicaragua has shown an inadmissible cynicism in trying to make it appear that it has to discontinue its unfortunate action in order for the Government of Costa Rica to comply, faithfully and fully, with the obligations it assumed on signing the Agreement of Esquipulas II. As anyone of good faith knows, this Agreement is a direct result of the Peace Plan presented to his Central American colleagues by President Oscar Arias of Costa Rica. Said Plan represents a standard of conduct which Costa Rica has observed for many decades. To obtain the acceptance of this Plan, the Costa Rican Government had to make a persistent effort over a period of more than six months.

7. Costa Rica is compelled to reject categorically the aggressive and unfounded terms used by the Nicaraguan Foreign Minister, Mr. Miguel D'Escoto, in his letter does not contribute to the harmony we seek in Central America.

8. In stating that it does not oppose the discontinuance requested by Nicaragua, Costa Rica wishes to express its hope that the Nicaraguan Government will fulfil the commitments it undertook in the document entitled “Process Toward Establishing a Firm and Lasting Peace in Central America”, based on the Peace Plan proposed by the President of Costa Rica and signed on 7 August 1987, by the Presidents of the five Republics of Central America.

9. In light of the above, the Government of Costa Rica requests that in accordance with the provisions of Article 89 (3) and with reference to Article 89 (2) of

the Rules, the President of the Court make an order officially recording the discontinuance of the proceedings brought by Nicaragua against Costa Rica and directing the removal of the case from the list.

48. THE AGENT OF COSTA RICA TO THE REGISTRAR

18 August 1987.

In reply to your letter No. 78361 dated 14 August 1987, I have the honour to inform the Court that the Government of Costa Rica has no objections that copies of the pleading in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* be made available to the Government of the Republic of Honduras as it has requested in its letter of 13 August 1987, pursuant to Article 5, paragraph 1, of the Rules of the Court.

49. THE REGISTRAR TO THE AGENT OF NICARAGUA

18 August 1987.

I have the honour to transmit to Your Excellency herewith copies of two letters bearing today's date and handed to me this afternoon by the Agent of Costa Rica in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, the one relating to the notice of discontinuance filed by Nicaragua on 12 August 1987 and the other to the request by the Government of Honduras that the pleadings in the case might be made available to it.

In view of the absence of objection by Costa Rica to the discontinuance of the case, the President of the Court will shortly make the appropriate Order pursuant to Article 89, paragraphs 2 and 3, of the Rules of Court.

50. THE REGISTRAR TO THE AGENT OF COSTA RICA

19 August 1987.

I have the honour to acknowledge receipt of the letter which Your Excellency handed to me yesterday afternoon, informing me (*inter alia*) that the Government of Costa Rica does not object to the discontinuance by Nicaragua of the proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*. I now have the honour to transmit to you herewith two plain copies of an Order¹ made by the President of the Court today, placing that discontinuance on record, and directing the removal of the case from the list.

The official sealed copy of the Order destined for the Government of Costa Rica will be transmitted to you shortly.

¹ *I.C.J. Reports 1987*, p. 182.

51. THE REGISTRAR TO THE AGENT OF NICARAGUA

19 August 1987.

Further to my letter of yesterday's date, I have the honour to transmit to Your Excellency herewith two plain copies of an Order made by the President of the Court today, placing on record the discontinuance of the proceedings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and directing the removal of that case from the list.

The official sealed copy of the Order destined for the Government of Nicaragua will be transmitted to you shortly.

52. THE DEPUTY-REGISTRAR TO THE AGENT OF COSTA RICA

21 August 1987.

I have the honour to acknowledge the receipt on 18 August 1987 of the letter of that date by which Your Excellency was good enough to inform me that your Government has no objection to copies of the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* being made available to the Government of Honduras.

For your information, I may mention that a copy of your letter has been delivered to the Agent of Nicaragua.

(Signed) Bernard NOBLE.

53. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

21 August 1987.

I have the honour to refer to my letter of 14 August 1987 transmitting a copy of a request by the Government of Honduras that the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* be made available to it pursuant to Article 53, paragraph 1, of the Rules of Court, and to my letter of 18 August 1987 transmitting a copy of a letter from the Agent of Costa Rica indicating that his Government has no objection to that request. The proceedings in that case have of course now been terminated, following the notice of discontinuance filed by Nicaragua on 12 August 1987, by the Order made by the President of the Court on 19 August 1987.

As Your Excellency will be aware, the practice of the Court is that a decision is normally taken at the time of the opening of the oral proceedings, under Article 53, paragraph 2, of the Rules, to make the pleadings and annexed documents accessible to the public. Until then, the pleadings remain confidential and neither the Registry nor the parties themselves make copies available to anyone not concerned in the case. When a decision has been taken under Article 53, paragraph 2, of the Rules, from that time on, and in particular after the proceedings have terminated, the pleadings in that case, and in general the documents destined to be reproduced in the series *Pleadings, Oral Arguments, Documents*, may be regarded as in the public domain even before the relevant volume in that series appears. A request by a third State for copies of the

pleadings therefore does not in such circumstances require the application of the procedure of paragraph 1 of Article 53.

The present situation is unprecedented in the sense that, since the adoption of the current Rules of Court, it has not occurred that a case has been discontinued after one or more pleadings have been filed, but before any decision has been taken under Article 53, paragraph 2, of the Rules. The Court is aware, from the communications received from the Parties, that the dispute to which the case relates has not yet been resolved, but that efforts are being made toward its peaceful settlement in a wider context; hence a cautious approach is called for. The President of the Court proposes to lay the question of the status of the pleadings in this case, and that of the possible continuing applicability of Article 53, before the Court for decision.

If however it should be the case that neither of the Parties has any objection to the pleadings being made available to the Government of Honduras, the President would consider it appropriate to authorize this, without prejudice to the wider question of the status of the pleadings, which remains reserved for decision by the Court. I should therefore still be obliged if Your Excellency could indicate the views of the Government of Nicaragua on this particular point, not later than 31 August 1987.

54. THE DEPUTY-REGISTRAR TO THE AGENT OF COSTA RICA

21 August 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter which, on the instructions of the President of the Court, I have today sent to the Agent of Nicaragua in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and venture to draw your attention to the fact that the question of the status of the pleadings in this case, and that of the possible continuing application of Article 53 of the Rules of Court, will be laid before the Court for decision.

55. THE DEPUTY-REGISTRAR TO THE SECRETARY-GENERAL OF THE UNITED NATIONS
(*facsimile*)

27 August 1987.

I communicate herewith for your information the text of an Order made on 19 August 1987 by the President of the International Court of Justice recording the discontinuance of the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* and removing it from the Court's List. The printed version will follow very shortly.

56. THE AGENT OF NICARAGUA TO THE REGISTRAR

31 August 1987.

I have the honour to refer to the letter of 21 August 1987 which communicates the request of the President of the Court that the Government of Nicaragua

should indicate its views on the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* being made available to the Government of Honduras pursuant to Article 53, paragraph 1, of the Rules of Court.

The Government of Nicaragua, while taking notice that the Government of Costa Rica has indicated that it has no objections to this request, wishes to point out that it does not consider that the Government of Honduras — or any other nation for that matter — could have any special right to have made available the pleadings in a case that has been discontinued.

On the other hand, the Government of Nicaragua considers that the pleadings before the Court in this instance are documents of public interest and as such should be available to other nations.

Therefore, in the understanding that all parties to the Statute will have available the pleadings in this case, Nicaragua has no objection that they be made so available to the Government of Honduras.

57. THE DEPUTY-REGISTRAR TO THE AGENT OF NICARAGUA

2 September 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of 31 August 1987 concerning the request of the Government of Honduras that the pleadings and annexed documents in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* be made available to it. I have the honour further to inform you that the President of the Court has decided, after consideration of the views expressed in that letter and those expressed on behalf of Costa Rica in a letter from its Agent dated 18 August 1987 (a copy of which was transmitted to you with the Registrar's letter of that date), to accede to the request of the Government of Honduras.

The views of the Government of Nicaragua as to the pleadings being made available to other States parties to the Statute have been duly noted, and will be taken into account in the event of a request to that effect being received from any such State.

Copies of the pleadings are accordingly being made available to the Government of Honduras, which is also being informed that, as indicated in the Registrar's letter of 21 August 1987, the question of the status of the pleadings remains reserved for decision by the Court, and that accordingly the copies are to be treated at present as confidential. The Government of Costa Rica is also being informed of the President's decision.

58. THE DEPUTY-REGISTRAR TO THE AGENT OF COSTA RICA

2 September 1987.

I have the honour to transmit to Your Excellency herewith a copy of a letter dated 31 August 1987 from the Agent of Nicaragua concerning the request of the Government of Honduras that the pleadings and annexed documents in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa*

Rica) be made available to it. I have the honour further to inform you that the President of the Court has decided, after consideration of the views expressed in that letter and those expressed on behalf of Costa Rica in your letter dated 18 August 1987, to accede to the request of the Government of Honduras.

The Agent of Nicaragua has been informed of this decision, and informed also that the views of his Government as to the pleadings being made available to other States parties to the Statute have been duly noted, and will be taken into account in the event of a request to that effect being received from any such State.

Copies of the pleadings are accordingly being made available to the Government of Honduras, which is also being informed that, as indicated in the Registrar's letter of 21 August 1987, the question of the status of the pleadings remains reserved for decision by the Court, and that accordingly the copies are to be treated at present as confidential.

59. THE DEPUTY-REGISTRAR TO THE AMBASSADOR OF HONDURAS TO THE
NETHERLANDS

2 September 1987.

I have the honour to inform Your Excellency that the President of the Court, having ascertained the views of the Governments of Nicaragua and Costa Rica, has decided to accede to the request, made in your letter of 13 August 1987, that the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)* be made available to the Government of Honduras.

Copies of the pleadings and annexed documents concerned are accordingly being dispatched to you under separate cover.

I am however specifically to emphasize that, as no decision had been taken by the Court, prior to the discontinuance of the proceedings, to make the pleadings accessible to the public under Article 53, paragraph 2, of the Rules of Court, and the Court has not yet been advised of any resolution of the dispute underlying the case now discontinued, the President has decided that the question of the status of those pleadings and documents shall for the time being remain reserved for the decision of the Court. They should therefore be treated at present as confidential.

60. THE AMBASSADOR OF HONDURAS TO THE NETHERLANDS TO THE
DEPUTY-REGISTRAR

9 September 1987.

I acknowledge receipt of your letter of September 2, 1987, as well of the documents annexed to it, which refer to the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

I appreciate the decision of the President to accede to our request and I take due note that as no decision has been taken by the Court to make the pleadings accessible to the public under Article 53, paragraph 2, of the Rules of the Court, the pleadings and documents should be treated as confidential.

61. LE GREFFIER ADJOINT AU MINISTRE DES AFFAIRES ÉTRANGÈRES D'AFGHANISTAN¹

9 septembre 1987.

Le Greffe de la Cour internationale de Justice, se référant à sa lettre du 21 août 1986 transmettant un exemplaire de la requête introductive d'instance en l'affaire relative aux *Actions armées frontalières et transfrontalières (Nicaragua c. Costa Rica)*, a l'honneur de transmettre ci-inclus une copie de l'ordonnance par laquelle, le 19 août 1987, le Président a prescrit de rayer ladite affaire du rôle de la Cour.

Des exemplaires imprimés seront expédiés par la voie normale dès leur parution.

62. THE DEPUTY-REGISTRAR TO THE AGENT OF COSTA RICA²

10 September 1987.

I have the honour to send herewith, for your information, a copy of a letter dated 9 September 1987 which I have today received from the Ambassador of Honduras to the Netherlands subsequent to the despatch to his Government of a copy of the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*.

63. THE DEPUTY-REGISTRAR TO THE AMBASSADOR OF HONDURAS TO THE NETHERLANDS

11 September 1987.

I have the honour to acknowledge receipt of Your Excellency's letter of 9 September, following the despatch to your Government of a copy of the pleadings in the case concerning *Border and Transborder Armed Actions (Nicaragua v. Costa Rica)*, and take note of your remarks regarding the status of these pleadings.

A copy of your letter has been communicated for information to each of the Agents in the case concerned.

¹ Une communication analogue a été adressée aux autres Etats Membres des Nations Unies et aux Etats non membres des Nations Unies admis à ester devant la Court.

² A communication in the same terms was sent to the Agent of Nicaragua.