CONTENTS – TABLE DES MATIÈRES

Counter-Memorial of the United States of America (Questions of Jurisdiction and Admissibility) — Contre-mémoire des Etats-Unis d'Amérique (questions de la compétence et de la recevabilité)	Page
Introduction and Summary	3
Introduction	3 5
Part I. Nicaragua Has Not Invoked an Effective Title of Jurisdiction	10
Introduction Chapter I. Nicaragua has never accepted the Court's compulsory jurisdiction and therefore has no right to invoke that jurisdiction against the United States	10
Section I. Nicaragua never accepted the compulsory jurisdiction of the Permanent Court of International Justice	11
 A. Only parties to the Protocol of Signature to the Statute of the Permanent Court of International Justice could accept that Court's compulsory jurisdiction B. Nicaragua never became party to the Statute of the Permanent Court 	11
 1. 14 September 1929: Nicaragua signed but did not ratify the Protocol of Signature 2. 24 September 1929: Nicaragua made an ineffective declaration under the Optional Clause of the Protocol of Signature 3. 1930-1935: Nicaragua's domestic consideration of the Protocol of Signature 4. 1936-1938: Nicaragura's withdrawal from the League of Nations 5. 1939-1946: Communications between Nicaragua and the League confirmed that Nicaragua had not accepted the Permanent Court's compulsory jurisdiction 	13 13 13 14 15
Section II. Because Nicaragua's Declaration was never an acceptance of the compulsory jurisdiction of the Permanent Court, the Declaration cannot be deemed under Article 36 (5) to be an acceptance of the compulsory jurisdiction of the International Court of Justice A. According to the plain meaning of the words "still in force",	18
Article 36 (5) applies only to declarations binding the declarant to accept the compulsory jurisdiction of the Permanent Court 1. "In force" means "binding" 2. The French text of Article 36 (5) of this Court's Statute also requires that a declaration be binding under the Statute of the Permanent Court in order to be deemed an acceptance of this Court's jurisdiction	18 18
3. Article 36 (5) cannot bring into force a declaration that had never been in force under the Permanent Court's Statute	22

	Page
Section III. Nicaragua is required by the Charters of the United Nations and of the Organization of American States to seek regional solutions to problems concerning the maintenance of regional peace and security	174
and security	174
Submissions	176
Annexes to the Counter-Memorial of the United States of America	
Annex 1. Affidavit of Secretary of State George P. Schultz dated	
14 August 1984	177
Statute of the Court, signature and ratification by the Government of Nicaragua", Registry Number 3C/12843/279, dated 31 July 1984 Annex 3. Letter from the Division of Foreign Affairs, Federal Political Department, Government of Switzerland, to the Secretary-General of	181
the League of Nations, dated 22 October 1929 (League of Nations Archives, file number 3C/12843/279)	182
Annex 4. Letter from the League of Nations Legal Adviser to the Chief of the Federal Political Department, Division of Foreign Affairs, Government of Switzerland, dated 25 October 1929 (League of	
Nations Archives, file number 3C/12843/279)	183
3C/12843/279)	184
3D/12843/279)	185
3C/12843/279) and French translation	186
of Signature to the Nicaraguan Congress) and English translation	187
Annex 9. XXXIX La Gaceta 1033 (1935) (Nicaragua's Senate approves the Protocol of Signature) and English translation	188
Annex 10. XXXIX La Gaceta 1673 (1935) (Nicaragua's Chamber of Deputies approves the Protocol of Signature) and English translation Annex 11. Letter from the Minister of Foreign Affairs of Nicaragua to the Secretary-General of the League of Nations, dated 4 April 1935,	189
and English translation	190
the Minister of Foreign Affairs of Nicaragua, dated 6 May 1935 (League of Nations Archives, file number 3C/17664/1589)	191
Annex 13. Letter from the United States Ambassador to Nicaragua to the Secretary of State, dated 13 May 1943, enclosing a letter from the Ambassador to Judge Manley Hudson, dated 13 May 1943,	

	Page
Section II. The Court cannot adjudicate the rights and obligations of third States without their consent or participation	134
Chapter II. The Application would require the adjudication by the Court of a subject-matter specifically committed to other modes of resolution by the Charter of the United Nations	136
Section I. The Nicaraguan allegations constitute a request for a determination by the Court that there exists a threat to the peace,	
a breach of the peace or an act of aggression	136
the exclusive competence of the political organs	138
A. The text of the Charter	138
B. The origins and history of the Charter	142 149
1. The Nicaraguan Application is without precedent	149
2. The Corfu Channel case	150 151
Chapter III. This Court may not properly exercise subject-matter jurisdic-	
tion over Nicaragua's claims	156
Section I. The Court should defer to the other organs of the United Nations with respect to matters confided to those other organs by	157
the Charter	156
A. General considerations B. The <i>Memel</i> and <i>Minority Schools</i> cases are not relevant to the	156
issue before the Court	159 160
Section II. Nicaragua is requesting that the Court review decisions already taken by the political organs	163
Section III. Article 51 of the Charter precludes impairment of the inherent right of individual and collective self-defense.	164
Chapter IV. The judicial process is inherently incapable of resolving on-going armed conflict	166
Section I. The nature of the judicial function precludes its application to the substance of Nicaragua's allegations	166
Section II. The situation alleged in the Nicaraguan Application cannot be judicially managed or resolved	167
Section III. The conclusion that the Court cannot judicially determine the matters alleged in the Nicaraguan Application does not mean that international law is neither relevant nor controlling	169
Chapter V. The Nicaraguan Application is inadmissible because the	107
established processes for resolution of the overall issues of Central America have not been exhausted	170
Section I. The Contadora process, to which Nicaragua is party, is recognized, both by the political organs of the United Nations and by the Organization of American States, as the appropriate method	
for the resolution of the issues of Central America Section II. The Contadora process has adopted, among its aims,	170
principles directed to the very claims and issues raised by the Nicaraguan Application	171

Page

4. Denial of a right of modification to a State not making an express reservation in an older declaration would be inequitable and cannot be justified in light of the fundamental changes which have occurred in State practice under the Optional Clause	117
 (a) The inherent right asserted by the United States is fully consistent with the nature and operation of declarations accepting compulsory jurisdiction as articulated by this Court in the Right of Passage case (b) It would be inequitable to treat States unequally with respect to the right of modification by failing to interpret older declarations, like that of the United States, in light of the fundamental changes in the Optional Clause system that have been brought about by State practice 	117 119
Section IV. Even if construed as a termination of the 1946 declaration, the 6 April modification of the United States Declaration effectively suspended, before seisin, Nicaragua's claims from the scope of the United States consent to jurisdiction	121
A. Nicaragua's declaration, were it effective, would be immediately terminable	122
1. Nicaragua's declaration is indefinite in duration, not unlimited	122
2. Older declarations of indefinite duration, like that of Nicaragua, are immediately terminable	123
 B. Nicaragua never accepted "the same obligation" as the United States six-month notice proviso and may not, therefore, oppose that proviso as against the United States. C. The principles of reciprocity, mutuality and equality of States before the Court permit the United States to exercise the right of termination with the immediate effect implicit in the Nicaraguan right of termination, regardless of the six-month notice proviso in the United States declaration	124 124
Section V. The United States 6 April 1984 note is effective under international law and is valid under United States law	127
 A. The 6 April note is effective under international law regardless of its status under domestic United States law because a foreign minister has the apparent authority to bind the State represented B. The 6 April note was valid under United States law 	128 129
 The United States declaration is not a "treaty" for purposes of United States constitutional processes The President may narrow or terminate United States obligations under its declaration accepting compulsory jurisdic- 	129
tion	129
PART IV. THE INADMISSIBILITY OF THE APPLICATION	132
Introduction	132
Nicaragua has failed to bring indispensable parties before the Court	133
Section I. Adjudication of Nicaragua's claims would necessarily implicate the rights and obligations of other States	133

	Page
Section II. The 6 April note effected a modification temporarily suspending in part the operation of the United States declaration accepting the Court's compulsory jurisdiction; it did not terminate that declaration	99
declaration with immediate effect	101
A. Declarations under the Optional Clause are subject to modification at the discretion of the declarant State in any manner not inconsistent with the Statute at any time until an application has been filed with the Court	101
1. Declarations are <i>sui generis</i> in character; they are not treaties and are not governed by the law of treaties	101
 (a) It is incompatible with the terms of Article 36 of the Statute of the Court to regard declarations as treaties. (b) Declarations differ fundamentally from treaties in the 	102
unilateral nature of their formation	103 103
(d) The right of unilateral modification of declarations sanc-	
tioned by the Right of Passage case is alien to treaty law (e) Publicists generally concur that declarations are sui generis	105 105
2. A State's sovereign right to qualify its acceptance of the Court's compulsory jurisdiction is an inherent feature of the Optional Clause system, as reflected in, and developed by,	
State practice '	106
 (a) The system of reservations to declarations is based not on the Court's Statute but on State practice (b) A right to qualify acceptance of the Court's compulsory jurisdiction necessarily derives from the consensual basis 	106
of jurisdiction and the principle in plus stat minus (c) Reserved rights to modify declarations, or to terminate declarations and substitute new declarations therefor with immediate effect, dominate the present-day Optional	107
Clause system	109
to avoid prospective adjudication	110
the absence of a reserved right	111
3. The Court has confirmed the evolution of State practice with respect to declarations, and has recognised an inherent, extrastatutory right to modify declarations in any manner not inconsistent with the Statute at any time until the date of filing of an application	113
(a) The date for determining jurisdiction is the date of seisin, which is the date of filing of an application with the	112
Court	113
any time until the filing of an application	116

Page

81
83
86
86
88
8990
91
91
93 94
9 4 94
9 4 96
98
98

Page

B. The purpose and history of Article 36 (5) confirm that it does not apply to declarations, such as Nicaragua's, which were not in force for the Permanent Court
 The general understanding
C. Article 36 (5) has been applied only to States that had accepted the Permanent Court's compulsory jurisdiction
E. The King of Spain Arbitral Award case
 The Yearbook of the International Court of Justice United Nations publications Writings of publicists
(a) Professor Salo Engel4(b) Judge Manley Hudson4(c) Professor Shabtai Rosenne4
4. Publications of the United States Government 4. 5. Publications of Nicaragua
Section III. The conduct of the Parties cannot, and did not, create an acceptance by Nicaragua of the compulsory jurisdiction of the International Court of Justice
 A. A State may not manifest its consent to accept the compulsory jurisdiction of this Court except in conformity with the mandatory legal requirements of this Court's Statute
Chapter II. The Treaty of Friendship, Commerce and Navigation provides no basis for jurisdiction in this case
Section I. Having failed previously to identify the FCN Treaty as a basis for jurisdiction, Nicaragua may not now invoke that treaty. Section II. The FCN Treaty is wholly irrelevant to the dispute that is
the subject of Nicaragua's Application
PART II. STATEMENT OF FACTS RELEVANT TO JURISDICTION AND ADMISSIBILITY
Chapter I. Nicaragua has engaged in armed attacks on its neighbors 5
Section I. Nicaragua has promoted and supported guerrilla violence in neighboring countries

	Page
estic Service, 25 July 1984, as transcribed in FBIS, 25 July 1984 (Nica-	
ragua) Annex 98. FSLN Comandante Henry Ruiz, Barricada, Managua, 25 July 1984 (English translation provided) Annex 99. NOTIMEX, Mexico City, 28 June 1984, as reprinted in	440 440
Foreign Broadcast Information Service, 2 July 1984	440 440
Annex 101. United Nations Security Council resolution 530 (1983), 19 May 1983	441
Annex 102. Communication to the Registrar of the Court from Costa Rica, 18 April 1984	441
Annex 103. Communication to the Registrar of the Court from El Salvador, 19 April 1984	441
Nations, 18 April 1984	441
16 April 1984	442
mittee on Foreign Relations on S. Res. 196, 79th Cong., 2d Sess. (1946) Annex 107. Report of Senate Foreign Relations Committee, No. 1835,	443
79th Cong., 2d Sess. (1946)	446
Secretary-General of the United Nations, 6 April 1984	446 446
Annex 110. Translation of news report in Critica of observations by Foreign Minister Oyden Ortega Duran of Panama, 14 October 1983 Annex 111. Certification	446 447
Declaration of Intervention of the Republic of El Salvador (Article 63 of the Statute) — Déclaration d'intervention de la République d'El Salvador (article 63 du Statut)	
Letter from the Ambassador of El Salvador to the Registrar of the International Court of Justice Dated 10 September 1984	451
Written Observations on the Declaration of Intervention — Observations écrites sur la déclaration d'intervention	
Letter from the Agent of Nicaragua to the Registrar Submitting the Observations of Nicaragua on the Declaration of Intervention of El Salvador Dated 10 September 1984	465
LETTER FROM THE AGENT OF THE UNITED STATES OF AMERICA TO THE REGISTRAR OF THE INTERNATIONAL COURT OF JUSTICE SUBMITTING THE OBSERVATIONS OF THE UNITED STATES ON THE DECLARATION OF	
Intervention of El Salvador Dated 14 September 1984 Letter from the Agent of El Salvador to the Registrar of the International Court of Justice Dated 17 September 1984	467 472
DEFTEMBER 1707	712

CONTENTS - TABLE DES MATIÈRES	XXI
	Page
Annex 80. 1980 Nicaraguan order of battle, based on figures compiled by the United States Government from unclassified sources	410
Annex 81. 1982 Nicaraguan order of battle, based on figures compiled by the United States Government from unclassified sources Annex 82. 1984 Nicaraguan order of battle, based on figures compiled	410
by the United States Government from unclassified sources Annex 83. The International Institute for Strategic Studies, The Military	411
Balance 1983-1984, London, 1984 (excerpts)	411
Times, 27 January 1984	411
Annex 86. "Face the People" Program with Commander Daniel Ortega Saavedra and Junta Member Sergio Ramirez Mercado, Managua Domestic Service, 28 July 1984, as transcribed and excerpted in Foreign Broadcast Information Service, 31 July 1984	412
Annex 87. Alianza Revolucionaria Democratica (ARDE), For Peace and Democracy in Nicaragua, 20 February 1984	413
Annex 88. Declaration of the Nicaraguan Democratic Force of February 21, 1984, 21 February 1984	415
Annex 89. Press Conference, Edén Pastora, Agence France Press report, reprinted in Foreign Broadcast Information Service, 13 June 1984 Annex 90. "Ley Complementaria y del Decreto 1477" ("Supplemental	417
Law to Decree 1477"); 6 August 1984 (unofficial text, English translation provided)	417
Annex 91. "Cancun Declaration on Peace in Central America", annexed to United Nations document A/38/303; S/15877, 19 July 1983 Annex 92. Note by the Secretary-General, "The Situation in Central	417
America", S/16041**, 18 October 1983	418
Security and Peace Initiatives", United Nations General Assembly resolution 38/10, 11 November 1983	421
Annex 94. OAS General Assembly Resolution of 18 November 1983 on Peace Efforts in Central America, AG/Res. 675 (XIII-O/83), attached as Annex II to United Nations Security Council document S/16208,	
9 December 1983	422
Peace in Central America, Special Report No. 115, 15 March 1984. Annex 96. "Acta de Contadora para La Paz y la Cooperacion en Centroamerica" ("'Acta' on Peace and Co-operation in Central America"). La Nación San José 11 July 1984 and 12 July 1984.	424
America"), La Nación, San José, 11 July 1984 and 12 July 1984 (English translation provided)	425

	Page
bassy of Honduras to the United States of America, 23 August 1982	335
Annex 63. Diplomatic Notes from the Government of Costa Rica to the Government of Nicaragua, OEA/Ser.G CP/INF.2050/83 (30 September 1983); OEA/Ser.G CP/INF.2132/84 (29 February 1984);	
OEA/Ser.G CP/INF.2152/84 (24 April 1984)	344
Annex 64. Diplomatic Note from Government of Costa Rica to Foreign Ministers of Colombia, Mexico, Panama and Venezuela, 2 May 1984	349
Annex 65. "Under Salvador's Duarte, Death Squad Killings Fall", Christian Science Monitor, 10 August 1984	350
Annex 66. Editorial, "The Duarte Difference", New York Times,	350
2 August 1984	351
Annex 68. "Estatuto Fundamental" ("Basic Statute"), Government of	331
National Reconstruction of the Republic of Nicaragua, La Gaceta, 22 August 1979 (English translation provided)	368
Annex 69. "Estatuto Sobre Derechos y Guarantias de los Nicaragüenses" ("Law on Rights and Guarantees of Nicaraguans"), La Gaceta,	
17 September 1979 (English translation provided) (reprinted in Nicaraguan Permanent Commission on Human Rights, Decrees and	
Provisions of the Present Nicaraguan Legislation that Threaten Humans [sic] Rights (1983), pp. 32 et seq.)	373
Annex 70. "Ley que Aprueba y Ratifica la Convencion Americana Sobre Derechos Humanos Celebrada en San José, Costa Rica, 1969" ("Law	
Approving and Ratifying the American Convention on Human Rights, Signed at San José, Costa Rica, 1969"), Decree No. 174, La Gaceta,	
November 1979 (translation appears in document D, deposited with the Court)	382
Annex 71. United States Agency for International Development, Annual	20-
Budget Submission, FY 83 (Nicaragua), Vol. 1, June 1981 (excerpts).	382
Annex 72. United States Agency for International Development, "United	
States Assistance to Nicaragua", 13 July 1979-31 May 1981	382
Annex 73. Nicaraguan Permanent Commission on Human Rights, Report	202
1983 (Annual Report)	383
Annex 74. "Pastoral Letter on Reconciliation from the Nicaraguan	200
Bishops", 22 April 1984	399
Annex 75. Comments of Commander of the Revolution and Coordinator	
of the Junta of National Reconstruction Daniel Ortega Saavedra,	
Managua Domestic Services, 25 April 1984 as transcribed in Foreign	404
Broadcast Information Service, 26 April 1984	404
Annex 76. "Ley de Emergencia Economica y Social" ("Law of Economic and Social Emergency"), La Gaceta, 10 September 1981 (English	406
translation provided)	406
Annex 77. "Ley de Emergencia Nacional" ("Law of National Emer-	408
gency"), La Gaceta, 20 March 1982 (English translation provided). Annex 78. Organization of American States, Inter-American Commission	400
on Human Rights, Annual Report of the Inter-American Commission	410
on Human Rights 1982-1983 (excerpts)	410
Annex 79. The International Institute for Strategic Studies, The Military Balance 1977-78, London, 1978 (excerpt)	410
INCLURED 17// /U. LIVINIUM, AZIV (VAVVERV)	-

	Page
Annex 43. "For the Record", from a statement, 29 March 1984, by	
Senator Daniel Patrick Moynihan (Democrat – New York), 10 April	
1984, Washington Post, p. A-20	279
Annex 44. Congressional Record, 2 August 1984, pp. H 8268-8269	280
Annex 45. Report of the National Bipartisan Commission on Central	
America, 10 January 1984 (excerpts)	283
Annex 46. "Nicaraguan Bares Plan to Discredit Foes", Washington Post,	
19 June 1983	283
Annex 47. "Bases for Ferrying Arms to El Salvador Found in	
Nicaragua", Washington Post, 21 September 1983	283
Annex 48. "Cuba Directs Salvador Insurgency, Former Guerrilla	
Lieutenant Says", New York Times, 28 July 1983	283
Annex 49. "Salvador Rebels Still Said to Get Nicaraguan Aid", New	
York Times, 11 April 1984	284
"A Former Salvadoran Rebel Chief Tells of Arms from Nicaragua",	
New York Times, 12 July 1984	284
Annex 50. United States Department of State, "Communist Interference	
in El Salvador", Special Report No. 80, 23 February 1981	285
Annex 51. Interview with President Magana, ABC (Madrid), 22 De-	
cember 1983	293
Annex 52. Inaugural address of President Napoleon Duarte, San	
Salvador, 1 June 1984, Foreign Broadcast Information Service, 4 June	
1984	295
Annex 53. Press Conference with President Duarte (San Salvador),	
27 July 1984, Foreign Broadcast Information Service, 30 July 1984 .	297
Annex 54. Broadcasts, Radio Venceremos (Farabundo Martí Libera-	
tion Front), Foreign Broadcast Information Service, June-August	
1984	300
Annex 55. United States Pepartment of State, Congressional	
Presentation, "Security Assistance Programs", Costa Rica, El	
Salvador, Honduras, FY 1981-FY 1985	302
Annex 56. United States Department of State, "El Salvador: Revolution	
or Reform?", Current Policy No. 546, February 1984	303
Annex 57. Costa Rican Ministry of Foreign Relations and Worship, Las	
Relaciones entre Costa Rica y Nicaragua (Relations between Costa	
Rica and Nicaragua), 28 July 1982, attachments not provided (English	
translation provided)	306
Annex 58. "Honduran Army Defeats Cuban-Trained Rebel Unit",	
Washington Post, 22 November 1983	312
Annex 59. Speech by Roberto Martínez Ordóñez, Honduran Ambassador	
to the Organization of American States, 14 July 1983, Foreign	
Broadcast Information Service, 20 July 1983	313
Annex 60. Remarks of Mr. Flores Bermudez, Representative of	
Honduras, before the United Nations Security Council, 4 April 1984,	
S/PV.2529 (excerpt)	323
S/PV.2529 (excerpt)	
Government of Nicaragua, OEA/Ser.G, CP/INF.2012/83 (5 July	
1983); OEA/Ser.G, CP/INF.2016/83 (11 July 1983); OEA/Ser.G,	
CP/INF.2187/84 (20 July 1984)	332
Annex 62. Honduran Ministry of Foreign Relations, Resumé of San-	
dinista Aggressions in Honduran Territory in 1982, from the Em-	

	rage
Annex 28. Nicaraguan Instrument of Ratification of the Charter of the United Nations and the Statute of the International Court of Justice Annex 29. Report of Subcommittee D to Committee IV/1 on Article 36 of the Statute of the International Court of Justice, dated 31 May 1945, document 702, United Nations Conference on International Orga-	207
nization, Documents, Vol. 13, pp. 557-560 (English), 562-565 (French) Annex 30. Proposals by the Delegation of France relating to Article 36 of the Statute of the International Court of Justice, dated 5 June 1945, document 947, United Nations Conference on International Organi-	208
zation, Documents, Vol. 13, pp. 485 (English), 486 (French) Annex 31. Summary Report of Nineteenth Meeting of Committee IV/1, dated 7 June 1945, document 828, United Nations Conference on International Organization, Documents, Vol. 13, pp. 282-284 (English),	211
288-290 (French)	212
416, 419, 425-426 (French)	215
Letter 58.1936.V	218
Appendices	220
the Manuscript Division of the Harvard Law School Library). Annex 36. Letter from the Deputy-Registrar of the Court to Judge Hudson, dated 28 September 1955, enclosing a letter from Mr. Pelt, Director, European Office of the United Nations, to the Registrar of the Court, dated 14 September 1955 (from Judge Hudson's papers on deposit in the Manuscript Division of the Harvard Law School	253
Library)	255
School Library) Annex 38. Letter from Judge Hudson to the Foreign Minister of Honduras, dated 12 August 1955 (from Judge Hudson's papers on deposit in the Manuscript Division of the Harvard Law School Library)	258266
Annex 39. American Treaty on Pacific Settlement (the "Pact of Bogotá") Annex 40. Treaty of Friendship, Commerce and Navigation between Nicaragua and the United States of America, signed at Managua, 21 January 1956, entered into force, 24 May 1958. 9 UST 449;	267
TIAS 4024; 367 UNTS 3	271
US Senate, 84th Congress, 2d Session, 9 July 1956, pp. 1, 4	272276
==::: : = ==:, 3=:: (w/, / = = = = = = = = = = = = = = = = = =	-,0

and an unsigned copy of the decree of 11 July 1935 and English	<i>Page</i>
	101
	エフィ
Annex 14. Telegram from Managua to Secretary, League of Nations, dated 30 November 1939, and English translation	194
ale, signé à Genève le 16 décembre 1920, signatures et ratifications, Turquie", Registry Number 3C/19181/1589, dated 31 July 1984 Annex 16. Letter from the Minister of Foreign Affairs of the Republic of Turkey to the Secretary-General of the League of Nations, dated	195
	196
	197
Court, to the Legal Adviser of the League of Nations, dated 18 March	199
to the Legal Adviser of the League of Nations, dated 15 April 1936	200
the Norwegian Delegate to the League of Nations, dated 21 April	201
number 3C/19181/1589) Annex 22. Letter from H. McKinnon Wood of the Legal Section of the League of Nations Secretariat to the Foreign Office of the United Kingdom, dated 13 July 1937, enclosing a note prepared by the Treaty Registration Branch of the League of Nations Legal Section (League	202
of Nations Archives, file number 3C/19181/1589)	203
Annex 24. Letter from Judge Hudson to Mr. Lester of the League of Nations Secretariat, dated 4 August 1942 (League of Nations Archives,	204
Annex 25. Letter from the Acting Legal Adviser of the League of Nations to Judge Hudson, dated 15 September 1942 (League of	204
Annex 26. Letter from the Acting Legal Adviser of the League of Nations to the Minister for Foreign Affairs of Nicaragua, dated 16 September 1942 (League of Nations Archives, file number	204
3C/17664/1589)	204205

INTERNATIONAL COURT OF JUSTICE PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

CASE CONCERNING MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA

(NICARAGUA v. UNITED STATES OF AMERICA)

VOLUME II

COUR INTERNATIONALE DE JUSTICE
MÉMOIRES, PLAIDOIRIES ET DOCUMENTS

AFFAIRE DES ACTIVITÉS MILITAIRES ET PARAMILITAIRES AU NICARAGUA ET CONTRE CELUI-CI

(NICARAGUA c. ÉTATS-UNIS D'AMÉRIQUE)

VOLUME II



	Page
Section II. Nicaragua has openly conducted cross-border military	<i>(</i> 0
attacks on its neighbors	60 60
Chapter II. The underlying problems of Central America are region wide and arise principally from interrelated social, economic, political and security factors	62 64
Section I. The 1979 Revolution in Nicaragua promised democratic reforms and was widely supported internationally Section II. The Sandinista régime has violated its domestic and	64
international promises	65 67
Chapter IV. The United States, Nicaragua and the other States of Central America have agreed to resolution of the conflict in Central America through the Contadora dispute settlement process	69
Section I. The Central American parties and the United States as well as the competent international political organs have agreed upon the nature of the dispute, the scope of the issues to be addressed in a settlement and a specific procedure for the peaceful settlement of	
a settlement and a specific procedure for the peaceful settlement of the dispute	69
Section II. The Contadora process has resulted in a draft "Acta" addressing regional issues	70
Section III. The United States and Nicaragua are engaged in negotiations ancillary to the Contadora process	71
Section IV. The United States has acted to help preserve the viability of the agreed Contadora dispute settlement mechanism	71
PART III. NICARAGUA'S CLAIMS DO NOT COME WITHIN THE SCOPE OF THE UNITED STATES CONSENT TO THE COURT'S JURISDICTION	74
Introduction	74
Application with the Court Chapter II. The multilateral treaty reservation to the United States declaration expressly excludes Nicaragua's claims from the scope of the United States acceptance of this Court's compulsory jurisdiction because any decision that the Court could render would affect States not before the Court that are party to the multilateral treaties on which Nicaragua relies	76 78
Section I. Introduction	78
Section II. The intent and effect of the multilateral treaty reservation are to preclude jurisdiction when treaty parties that would be affected by the Court's decision are not before the Court	79
A. The multilateral treaty reservation was adopted specifically to preclude jurisdiction when treaty parties that would be affected by the Court's decision were not before the Court	79