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

Letter dated 16 July 1986 from the Chargé d'affaires a.i. of the
Permanent Mission of Costa Rica to the United Nations addressed
to the Secretary-General

I have the honour to transmit to you the text of the note dated 15 July 1986 which the Minister for Foreign Affairs of Costa Rica, Mr. Rodrigo Madrigal Nieto, sent in reply to the note he received on 6 June 1986 from the Ministers for Foreign Affairs of the Contadora Group and the Support Group.

I should be grateful if you would have this note and the annex thereto circulated as an official document of the fortieth session of the General Assembly, under agenda item 21, and of the Security Council.

I would also like to inform you that the attached text has been transmitted to the Organization of American States.

(Signed) Ambassador Emilia C. de BARISH
Chargé d'affaires a.i.

ANNEX

Letter dated 15 July 1986 from the Minister for Foreign Affairs
of Costa Rica in reply to the note of 6 June 1986 from the
Ministers for Foreign Affairs of the Contadora Group and
the Support Group

I have the honour to acknowledge receipt of and reply to your note which I received on 6 June 1986.

I would like first of all to express to you, on behalf of the Government and people of Costa Rica, our appreciation for the efforts of the Contadora Group during the past three years to find a peaceful solution to the crisis which continues to face the Central American isthmus, given that the establishment of pluralistic democracy throughout Central America is of major importance in making it possible to achieve the peace we all desire.

The Government of Costa Rica has given attentive and lengthy consideration to the draft Act produced by the Contadora Group on 6 June. We know that its drafting required many hours of work and that it represents a valuable effort in the endeavour to reconcile and harmonize diametrically opposed points of view, which are basically equivalent to the two divergent positions regarding the meaning of life and the conception of power which divide the Central American countries at the bargaining table, as their Presidents indicated at Esquipulas.

For us, Sirs, the entry into force of the Act would not, in its substantive aspects, represent anything new in so far as life in Costa Rica is concerned. In fact, the commitments which make up the substantive part of the Act have for many years been a part not only of Costa Rican law but of the country's daily life as well. They are not a dead letter in so far as the country's laws are concerned; their adoption would constitute a mere propagandistic trick even less. They are institutions whose practical effect is evident in Costa Rica as a matter of course, and they reflect the nation's highest and most cherished values.

Throughout the country's 150 years of independence, peace has been a genuine way of life. Costa Rica has never waged a war of aggression, and the only significant warlike act recorded in its history was the campaign to liberate Central America from the filibustero threat in 1856. This oft-stated commitment to peace on the part of the Costa Rican people is indicative of that people's determination not to intervene in matters that do not concern it, and is the essence of the Declaration of Perpetual Neutrality proclaimed in 1983 by the Costa Rican Government, which remains in full force.

However, as mentioned earlier, peace is not genuine if it is not based on democracy. In 1989, Costa Rica will mark 100 years of democratic life. Since 1949, after a brief interruption of this process and in order to strengthen it, a Supreme Electoral Tribunal, equal in rank and independence with other, conventional, State powers, has guaranteed that elections are free from interference and effective. In the legislative branch of our Government, created

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through this election process, the most diverse ideologies are represented. This plethora of political parties has been a constant in national life, and the corrupt practice of holding fraudulent elections in order to perpetuate a régime has been eliminated for decades. It is not rare in Costa Rica for the opposition to win in national or local elections, and when this happens, the Government is the first to respect the will of the people. This effective pluralism and the ongoing dialogue between the Government and the opposition have prevented political dissent from taking place on the battlefield and have made unnecessary any process of reconciliation in a country torn by fratricidal strife.

In the area of human rights, Costa Rica has followed a clearly upright path. Civil and political freedoms are fully respected. The right to asylum has been a reality since 1827, when we welcomed our first Nicaraguan brothers on the assumption that our country ought always to be a shelter for whomsoever sought peace and justice; today we continue to welcome thousands of fleeing refugees, despite our limited resources. The death penalty was abolished under the Constitution in 1882, and deprivation of citizenship as of 1949. Freedom of religion was guaranteed in 1848, and for more than a century harmony and collaboration between religious and civil authorities have prevailed. Social rights are equally respected, and popular education has been a major concern of Costa Rican Governments since independence, as can be seen from the high levels of literacy.

The international conventions on human rights are part of the Costa Rican legal order, taking precedence over national law. We were the first country to recognize the binding jurisdiction of the Inter-American Court of Human Rights, which has its headquarters at San José, and we are fully prepared to submit to any verification procedures that may be deemed necessary.

The security and arms build-up topics discussed during the Contadora talks are only of indirect concern to Costa Rica. Our country has a deep-rooted civilian tradition. Early in this century, growing institutional stability and the lack of external conflicts were leaving the Costa Rican army with nothing to do to justify its existence. It was therefore constitutionally abolished in 1949. Today there is not a single soldier in any part of Costa Rican territory; nor are there any foreign military bases or foreign military advisers. Ever since we became independent, there have been no foreign troops stationed in Costa Rica, and we do not want any. Like most of the American countries, we are a party to the Inter-American Treaty of Reciprocal Assistance, but we do not allocate resources to defence because we believe that dialogue and negotiation, the means used in settling our domestic problems, should also be used in the international context. We can understand why other countries may have to rely on armed forces, but we insist on our right not to have any and to allocate to health and education the resources which we might have used for arsenals.

I most earnestly implore you not to interpret the above explanations as an example of bragging, but simply as an objective and valid acknowledgement of what constitutes our past history and present situation, as a result of which we are obliged, even after three and a half years of Contadora initiatives, to look upon the situation in Central America perhaps with somewhat more concern than countries situated outside the region.

The fact that Costa Rica is already complying with the provisions of the Act and would have no hesitation at all in submitting to the mechanisms for verification, control and follow-up provided for in part II does not mean that our country is immune or indifferent to the effects of the present situation in Central America. Accordingly we are very concerned that the treaty should properly meet the aspirations for peace and pluralistic democracy of the Central American peoples and become a truly effective instrument. For Costa Rica, the restoration of democracy in Central America is a vital question. The lack of democracy threatens everything that we, amid dire poverty, have been striving to create from the day we acceded to independence as a free and sovereign nation. This is not artificial or imposed from outside. We believe that the violation of human rights and the threat to democracy and freedom are reprehensible wherever they occur, for we agree with John Paul II that rights have no frontiers. Hence we affirm the need to set a timetable for political progress and we have respectfully and cordially urged the States members of the Contadora Group and the Support Group not to accept the dichotomy between what some promise on the basis of the Act and how their Governments actually conduct themselves. The moral authority and the prestige enjoyed by the countries of both Groups, which with such altruism and such neglect of their own serious concerns, have been willing to address our problems, would be enhanced by a firm stance and by fraternal pressure to make that dichotomy disappear. In addition, that would enable them to stand up to any other régime, of like or unlike political complexion, which would pose the same threats in Latin America to the lives, freedom and dignity of its citizens.

The threats to democracy are so varied and there is such intense international pressure to eliminate them that we in Costa Rica would like to see the democracies build an alliance in defence of democracy. In this respect, the participation of Europe in the search for solutions to the conflicts of the region might represent an extremely valuable contribution.

The essence of the solution would be primarily Latin American because the focus would have to be on the peace-making process which you have devised and organized in real earnest. But there will also have to be fresh commitments and further cultural and political inputs in the effort to enhance the effectiveness of the process of democratization in the Americas. We welcome the fact that these new avenues of co-operation and dialogue with the Old World have been opened on the initiative of Latin America itself, as can be seen from the documents of the symposium on "Democracy and democratization: For a dialogue between Europe and Latin America", held by the Council of Europe at Strasbourg in June 1986. The struggle for peace and for the democratization of Central America has ceased to be the exclusive responsibility of the nations of this hemisphere. That is becoming clearer and clearer with the economic and political difficulties which we all face and which are conspiring against the efforts to find acceptable solutions. Also in this connection, we welcome the proposals put forward at Strasbourg.

For all these reasons, Costa Rica believes that on the basis of and in defence of the same principles that have been repeatedly and persistently invoked by the Contadora Group throughout three and a half years of negotiations, the draft Act can and must be improved as a matter of urgency. Of course we are fully prepared to contribute to that task in any way and in any circumstances that are appropriate

within the historical and political context which I have taken the liberty to describe to you.

In conclusion, allow me to make a detailed analysis of the Act and to point out those omissions or concepts which my Government believes should be rectified.

As presently drafted, the Act does not guarantee the actual and genuine implementation of the substantive commitments established therein. The Government of Costa Rica, therefore, believes that the mechanisms designed to ensure the fulfilment of the obligation should be improved so that their effectiveness is authentically guaranteed in the actual text of the Act.

Consequently, the Government of Costa Rica is of the view that all the negotiations should be concluded before the signing of the treaty. It would be totally illogical from the legal and political viewpoints to sign an agreement the text of which was not yet final but which might, on the contrary, vary substantially, according to the course that possible negotiations might take.

Specifically, it is unacceptable to the Government of Costa Rica that negotiations concerning arms limits and troop strength should be deferred to a stage subsequent to the entry into force of the Act. In reality, that proposal of the Contadora Group would, if accepted, carry forward the current "impasse" in the negotiating process to a stage subsequent to ratification. Today's uncertainty would thus be projected into the future, with the aggravating factor that the mechanism proposed by Contadora is imprecise, indecisive and almost "ad infinitum".

By way of example of this grave defect in the June 1986 version of the Act, the Government of Costa Rica wishes to point out the following:

- A. Within 60 days of the entry into force of the Act, the Verification and Control Commission shall suggest the maximum limits for military development, in accordance with the basic criteria laid down in paragraph 20. These basic criteria are open to subjective interpretation, which is counter-productive in a matter as serious as control of armaments. The following, inter alia, may be mentioned:
1. Security needs and defence capacity of each Central American State. A literal interpretation of this factor would mean, then, that at the time of ratification, a discussion on the relationship between aggression and the right to adequate defence would be reopened.
 2. Armaments subject to control; armaments subject to reduction. The classification of armaments should, in the view of the Government of Costa Rica, be made prior to the closure of the negotiating stage. Moreover, the draft Act also fails to establish who is to effect the proposed classification. Such an omission might constitute a serious obstacle at some point.

It is clear that, at the post-ratification stage, the Central American Governments would have to reopen the discussion on offensive and defensive armaments. Furthermore, the draft Act leaves a vacuum of uncertainty in this area,

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when it provides that, if the Verification and Control Commission succeeds in reconciling these basic criteria and in suggesting limits provisionally, those limits are to be submitted for the approval of all the parties. Undoubtedly, it follows from this that, if at this stage agreement is not reached between the parties, the application of the limits will remain temporarily in a vacuum.

Although the mechanism proposed by the Contadora Group provides that, after a period of 60 days from the entry into force of the Act, the parties shall have a period of 30 days in which to negotiate maximum arms limits and that, should they fail to reach agreement, the parties shall set a new time-limit by mutual agreement. Should they fail to reach such agreement, the remaining commitments under the head of security are to be suspended, practically leaving up in the air all this essential structure designed for control and verification in the area of security.

The Government of Costa Rica considers that this indefiniteness can only be overcome if the maximum arms limits are negotiated and established before the signing of the Act, and to this end it maintains the proposal which it submitted jointly with Guatemala and which was supported by El Salvador and Honduras at the meeting of plenipotentiaries held in Panama on 17 May 1986.

The Government of Costa Rica also notes with equal concern that the mechanisms established in the section on commitments with regard to execution and follow-up of commitments concerning political matters are insufficient for the attainment and practical operation of the commitments in question and that, consequently, they do not guarantee their full and effective discharge but merely provide for the setting up of a committee on them and the submission of annual reports to the Central American Governments. Accordingly, in order to fill this deep gap, Costa Rica considers it essential to draw up a timetable for continuing follow-up that would ensure the actual and verifiable application of political commitments and suggest that such a timetable be incorporated as an annex to the Act but be referred to specifically and mandatorily in the chapter on follow-up.

For example, in part II, paragraph A. (b), fourth paragraph onwards, of the Contadora Act for Peace and Co-operation in Central America, the Government of Costa Rica proposes, with regard to the functions assigned to the Ad Hoc Committee for Evaluation and Follow-up of Commitments Concerning Political Matters, the following additions and amendments, which are closely related to the commitments in question:

1. The Committee shall prepare an annual report and such special reports as it deems necessary in order to evaluate the measures that the States Parties have adopted for the improvement of their systems with regard to representative and pluralistic democracy and to ensure effective popular participation.
2. Likewise, the Committee will co-operate actively with the States Parties where deep divisions have come about within society, in order urgently to promote actions of national reconciliation which will make it possible for the people to participate, with full guarantees, in genuine

democratic political processes on the basis of justice, liberty and democracy, and towards that end, it will participate in the creation of mechanisms for dialogue with opposition groups in accordance with the law and in conformity with the annex to the Act entitled "Timetable for Continuing Follow-up".

3. In the same way, the Committee will follow up the commitment of the parties to adopt, endorse, broaden and improve the relevant legal measures so that they offer a genuine amnesty, in order that their people may participate fully in the political, economic and social affairs of the country. Similarly, it will follow up the commitments to guarantee the inviolability of life, liberty and security of person of those to whom such amnesty is granted, in conformity with the annex to the Act entitled "Timetable for Continuing Follow-up".

These requirements will give the Act the seriousness and importance required of an international instrument whose scope affects not only security matters but also political and civil liberties.

The Government of Costa Rica consequently proposes a draft text of a "Timetable for Continuing Follow-up", as referred to in previous paragraphs, which would appropriately strengthen and balance the part of the Act relating to political matters:

ANNEX

Timetable for Continuing Follow-up:

For purposes of the functions assigned to the Follow-up Committee with regard to national reconciliation and amnesty, the Committee shall be obliged to employ the following mechanisms within the time-limits indicated below:

Within 60 days following the entry into force of the Act, the Follow-up Committee shall in the case of countries which have national reconciliation problems draw up, jointly with the representatives of the State Party, a timetable which will permit the gradual achievement of an effective process of dialogue designed to overcome the internal political conflicts (stemming from the violation of human rights, the deep divisions in political society and its lack of democratization) which prevent reconciliation;

This timetable shall be put into effect within a period of not more than 180 days commencing within 30 days after its preparation has being completed.

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Concurrently with the measures referred to with respect to part II, section A, and also in parallel with the Timetable for Continuing Follow-up proposed as an annex to the Act, the Government of Costa Rica reiterates an initiative which it had already proposed in the Technical Committee of the Contadora Group. Basically, this initiative proposes the regrouping of certain commitments under the Act which

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are within the internal competence of States and, in order to be put into effect, do not require legislative ratification, but solely political will on the part of each State, into a resolution which could be adopted by the Central American Ministers for Foreign Affairs at the time of signature of the Act, but independently of it.

This resolution would urge the signatory States to adopt, individually and within the shortest time possible, measures designed to promote progress on such issues as:

Full exercise of individual and labour rights;

General amnesty on political and related offences with effective guarantees to safeguard the personal inviolability of the persons granted amnesty and their property;

Initiation of a real process of national reconciliation through broad dialogue with political opposition groups.

Central America cannot continue its involvement in negotiations which at times seem to be tending to become an end in themselves. The Contadora efforts must be seen to bear fruit within a short time, and this can only be achieved if adequate and effective mechanisms are established and all the parties involved are called upon to demonstrate their attachment to the provisions of the Act through something more than words and declarations. The countries members of the Contadora Group can make a fundamental contribution in this respect.

If the peace-making and democratizing effort of Contadora yields practical results, this will be the best tribute that can be paid to the Mediating Group, the Central American countries. We are all committed to this effort. Nevertheless, our responsibilities to our peoples and to history prevent us from settling for a half-way solution which, as a result of eagerness to conclude the negotiations rapidly and sign the Act, would neglect the need for effective democratization throughout the isthmus and disappoint yet again the yearnings and aspirations of all Central Americans.

Accept, Sir, the assurances of my highest consideration.

(Signed) Rodrigo Madrigal NIETO
Minister for Foreign Affairs

