

SECRETARY'S LETTER TO UN SECRETARY GENERAL,

OCT. 7, 1985 Dear Mr. Secretary-General:

I have the honor on behalf of the Government of the United States of America to refer to the declaration of my Government of 26 August 1946, as modified by my note of 6 April 1984, concerning the acceptance by the United States of America of the **compulsory jurisdiction** of the International Court of Justice, and to state that the aforesaid declaration is hereby terminated, with effect six months from the date hereof.

Sincerely Yours, GEORGE P. SHULTZ

DEPARTMENT STATEMENT,

OCT. 7, 1985

In accordance with the instructions of the President, on October 7, 1985, the Secretary of State deposited with the Secretary General of the United Nations formal notice of termination of the U.S. declaration, deposited on August 26, 1946, accepting the optional compulsory jurisdiction of the International Court of Justice (ICJ). This action will become effective 6 months after the deposit of that notice.

This decision is fully compatible with the Statute of the ICJ, which leaves it to the discretion of each state to determine its relationship with the World Court. That Statute also explicitly refers to the right to condition acceptance of the Court's compulsory jurisdiction on the principle of reciprocity.

When the President Truman signed the U.S. declaration accepting the World Court's optional compulsory jurisdiction on August 1, 1946, this country expected that other states would soon act similarly. The essential underpinning of the UN system, of which the World Court is a part, is the principle of universality. Unfortunately, few other states have followed our example. Fewer than one-third of the world's states have accepted the Court's compulsory jurisdiction, and the Soviet Union and its allies have never been among them. Nor, in our judgment, has Nicaragua. Of the five permanent members of the UN Security Council, only the United States and the United Kingdom have submitted to the Court's compulsory jurisdiction.

Our experience with compulsory jurisdiction has been deeply disappointing. We have never been able to use our acceptance of compulsory jurisdiction to bring other states before the Court but have ourselves been used three times. In 1946 we accepted the risks of our submitting to the Court's compulsory jurisdiction because we believed that the respect owed to the Court by other states and the Court's own appreciation of the need to adhere scrupulously to its proper judicial role would prevent the Court's process from being abused for political ends. Those assumptions have now been proved wrong. As a result, the President has concluded that continuation of our acceptance of the Court's compulsory jurisdiction would be contrary to our commitment to the principle of the equal application of the law and would endanger our vital national interests.

On January 18, 1985, we announced that the United States would no longer participate in the proceedings instituted against it by Nicaragua in the International Court of Justice. Neither the rule of law nor the search for peace in Central America would have been served by further U.S. participation. The objectives of the ICJ to which we subscribe--the peaceful adjudication of

international disputes--were being subverted by the effort of Nicaragua and its Cuban and Soviet sponsors to use the Court as a political weapon. Indeed, the Court itself has never seen fit to accept jurisdiction over any other political conflict involving ongoing hostilities.

This action does not signify any diminution of our traditional commitment to international law and to the International Court of Justice in performing its proper functions. U.S. acceptance of the World Court's jurisdiction under Article 36(1) of its Statute remains strong. We are committed to the proposition that the jurisdiction of the Court comprises all cases which the parties refer to it and all matters that are appropriate for the Court to handle pursuant to the UN Charter or treaties and conventions in force. We will continue to make use of the Court to resolve disputes whenever appropriate and will encourage others to do likewise. Indeed, as we have announced today, we have reached agreement in principle with Italy to take a longstanding dispute to the Court.

LEGAL ADVISER