

INTERNATIONAL PROGRESS ORGANISATION

"Brussels Tribunal" on US Foreign Policy*

The International Conference on the Reagan Administration's Foreign Policy convened in Brussels from 28-30 September, 1984 under the auspices of the International Progress Organization. Reports were submitted by international jurists and foreign policy specialists on various aspects of the Reagan Administration's foreign policy. Among the participants of the conference were Seán MacBride (Nobel Laureate, Ireland), Prof. George Wald (Nobel Laureate, Harvard University), General Edgardo Mercado Jarrin (Peru), General Nino Pasti (former Deputy Supreme Commander of NATO) and Hortensia Bussi de Allende (Chile). The reports were presented before a Panel of Jurists consisting of Hon. Farouk Abu-Elssa (Sudan) Attorney, former Foreign Minister, Secretary-General of the Arab Lawyers Union; Prof. Francis A. Boyle (U.S.A.), Professor of International Law from the University of Illinois, Chairman; Dr. Hans Goeran Franck (Sweden), Attorney, Member of the Swedish Parliament; Hon. Mirza Gholam Hafiz (Bangladesh), Former Speaker of the Bangladesh Parliament and currently a Senior Advocate of the Bangladesh Supreme Court; Hon. Mary M. Kaufman (U.S.A.), Attorney-at-Law, prosecuting attorney at the Nuremberg War Crimes trial against I. G. Farben; Dr. Jean-Claude Njem (Cameroun), Assistant Professor at the Faculty of Law, Uppsala University, and a Consultant of the Government; Prof. Alberto Ruiz-Eldredge (Peru), Professor of Law, former President of the National Council of Justice; and Dr. Muemtaz Soysal (Turkey), Professor of Constitutional Law, University of Ankara. An accusation against the international legality of the Reagan Administration's foreign policy was delivered by the Honorable Ramsey Clark, former U.S. Attorney General. The defense was presented by a legal expert of the Reagan Administration.

Based upon all the reports and documents submitted and the arguments by the advocates, the Brussels Panel of Jurists hereby renders the following conclusions concerning the compatibility of the Reagan Administration's foreign policy with the requirements of international law.

A. Introduction

1. **General Introduction.** The Reagan Administration's foreign policy constitutes a gross violation of the fundamental principles of international law enshrined in the Charter of the United Nations Organization, as well as of the basic rules of customary international law set forth in the U.N. General Assembly's Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty (1965), Its Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations (1970), and Its Definition of Aggression (1974), among others. In addition, the Reagan Administration is responsible for complicity in the commission of Crimes Against Peace, Crimes Against Humanity, War Crimes and Grave Breaches of the Third and Fourth Geneva Conventions of 1949.

B. Western Hemisphere

2. **Grenada.** The Reagan Administration's 1983 invasion of Grenada was a clearcut violation of U.N. Charter articles 2 (3), 2 (4), and 33 as well as of articles 18, 20 and 21 of the Revised OAS Charter for which there was no valid excuse or justification under international law. As such, it constituted an act of aggression within the meaning of article 39 of the United Nations Charter.

3. **Threat of U.S. Intervention.** In direct violation of the basic requirement of international law mandating the peaceful settlement of international disputes, the Reagan Administration has implemented a foreign policy towards Central America that constitutes a great danger of escalation in military hostilities to the point of precipitating armed intervention by U.S. troops into combat against both the insurgents in El Salvador and the legitimate government of Nicaragua.

4. **El Salvador.** The Reagan Administration's illegal intervention into El Salvador's civil war contravenes the international legal right of self-determination of peoples as recognized by article 1 (2) of the United Nations Charter. The Reagan Administration has provided enormous amounts of military assistance to an oppressive regime that has used it to perpetrate a gross

and consistent pattern of violations of the most fundamental human rights of the people of El Salvador.

5. **Nicaragua.** The Reagan Administration's policy of organizing and participating in military operations by opposition *contra* groups for the purpose of overthrowing the legitimate government of Nicaragua violates the terms of both the U.N. and O.A.S. Charters prohibiting the threat or use of force against the political independence of a state. The Reagan Administration has flouted its obligation to terminate immediately its support for the opposition *contra* groups in accordance with the Interim Order of Protection issued by the International Court of Justice on 10 May 1984.

6. **International Court of Justice.** The Panel denounces the patently bogus attempt by the Reagan Administration to withdraw from the compulsory jurisdiction of the International Court of Justice in the suit brought against it by Nicaragua for the purpose of avoiding a peaceful settlement of this dispute by the World Court in order to pursue instead a policy based upon military intervention, lawless violence and destabilization of the legitimate government of Nicaragua.

7. **Mining Nicaraguan Harbors.** The Reagan Administration's mining of Nicaraguan harbors violates the rules of international law set forth in the 1907 Hague Convention on the Laying of Submarine Mines, to which both Nicaragua and the United States are parties.

* (This document dated 30 September 1984 was released by the International Progress Organisation A-1150 Vienna, Austria, Reindorfsgasse 5. A copy was made available to Australian International Law News by Professor Francis A. Boyle of the University of Illinois College of Law.)

C. Nuclear Weapons Policies

8. Arms Control Treaties. The Reagan Administration has refused to support the ratification of the Threshold Test Ban Treaty of 1974, the Peaceful Nuclear Explosions Treaty of 1978, and the SALT II Treaty of 1979, in addition to renouncing the longstanding objective of the U.S. government to negotiate a comprehensive test ban treaty. As such the Reagan Administration has failed to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament as required by article 6 of the Nuclear Non-Proliferation Treaty of 1968. Similarly, the Reagan Administration's "Strategic Defense Initiative" of 1983 threatens to breach the Anti-Ballistic Missile Systems Treaty of 1972.

9. Pershing 2 Missiles. The deployment of the offensive, first-strike, counterforce strategic nuclear weapons system known as the Pershing 2 missile in the Federal Republic of Germany violates the Non-Circumvention Clause found in article 12 of the SALT II Treaty. The Reagan Administration is bound to obey this prohibition pursuant to the rule of customary international law enunciated in article 18 of the 1969 Vienna Convention on the Law of Treaties to the effect that a signatory to a treaty is obliged to refrain from acts that would defeat the object and purpose of a treaty until it has made its intention clear not to become a party.

10. The MX missile. The MX missile is an offensive, first-strike, counterforce strategic nuclear weapons system that can serve no legitimate defensive purpose under U.N. Charter article 51 and the international laws of humanitarian armed conflict.

11. No-first-use. In accordance with U.N. General Assembly Resolution 1553 of 24 November 1961, the panel denounces the refusal by the Reagan Administration to adopt a policy mandating the no-first-use of nuclear weapons in the event of a conventional attack as required by the basic rule of international law dictating proportionality in the use of force even for the purposes of legitimate self-defense.

12. ASAT Treaty. The Panel calls upon both the United States and the Soviet Union to negotiate unconditionally over the conclusion of an anti-satellite weapons treaty.

D. Middle East

13. Lebanon. For the part it played in the planning, preparation and initiation of the 1982 Israeli invasion of Lebanon, the Reagan Administration has committed a Crime against Peace as defined by the Nuremberg Principles. Likewise, under the Nuremberg principles, the Reagan Administration becomes an accomplice to the Crimes against Humanity, War Crimes and Grave Breaches of the Third and Fourth Geneva Conventions of 1949 that have been committed or condoned by Israel and its allied Phalange and Haddad militia forces in Lebanon. Such complicity includes the savage massacre of genocidal character of hundreds of innocent Palestinian and Lebanese civilians by organized units of the Phalangist militia at the Sabra and Shatila refugee camps located in West Beirut that were then subject to the control of the occupying Israeli army. The Reagan Administration has totally failed to discharge its obligation to obtain Israel's immediate and unconditional withdrawal from all parts of Lebanon as required by U.N. Security Council Resolutions 508 and 509 (1982), both of which are legally binding on Israel and the United States under U.N. Charter article 25. This includes Israeli evacuation of Southern Lebanon.

14. The Palestinian Question. The Reagan Administration's policy towards the Palestinian people as well as the Reagan "Peace Plan" of 1 September 1982 violates the international legal right of the Palestinian people to self-determination as recognized by U.N. Charter article 1(2). As recognized by numerous General Assembly Resolutions, the Palestinian people have an international legal right to create an independent and sovereign state. The Palestine Liberation Organization has been recognized as the legitimate representative of the Palestinian people by both the United Nations General Assembly and the League of Arab States. The Reagan Administration's non-recognition of the PLO and its attempt to brand

the PLO a "terrorist" group contravene the Palestinian people's right to liberation. The panel denounces the negative attitude of the Reagan Administration towards the call by the United Nations' Secretary General for the convocation of an international conference under the auspices of the United Nations, with the United States and the Soviet Union as co-chairmen, and with the participation of all parties involved in the conflict including the PLO, for the purpose of obtaining a just and lasting peace in the Middle East.

15. Israeli Settlements. The Reagan Administration's declared position that Israeli settlements in the Occupied Territories are "not illegal" is a violation of U.S. obligations under article 1 of the Fourth Geneva Convention of 1949 to ensure respect for the terms of the Convention (here article 49) by other High Contracting Parties such as Israel.

16. Libya. The Reagan Administration's dispatch of the U.S. Sixth Fleet into the Gulf of Sidra for the purpose of precipitating armed conflict with the Libyan government constitutes a breach of the peace under article 39 of the U.N. Charter. The Reagan Administration's policy to attempt to destabilize the government of Libya violates the terms of the United Nations Charter article 2 (4) prohibiting the threat or use of force directed against the political independence of a state.

E. Africa, Asia and the Indian Ocean

17. Apartheid. The Panel denounces the Reagan Administration's so-called policy of "constructive engagement" towards the apartheid regime in South Africa. This specious policy encourages discrimination and oppression against the majority of the people of South Africa; it hampers effective action by the international community against apartheid, and facilitates aggressive conduct by the South African apartheid regime against neighbour states in violation of the U.N. Charter. As such, the Reagan Administration has become an accomplice to the commission of the international crime of apartheid as recognized by the universally accepted International Convention on the Suppression and Punishment of the Crime of Apartheid of 1973. The Panel also denounces the cooperation between the Reagan Administration and South Africa in military and nuclear matters.

18. Namibia. The Reagan Administration has refused to carry out its obligations under Security Council Resolution 435 (1978) providing for the independence of Namibia, as required by article 25 of the U.N. Charter. The right of the Namibian people to self-determination had been firmly established under international law long before the outbreak of the Angolan civil war. The Reagan Administration has no right to obstruct the achievement of Namibian independence by conditioning it upon or "linking" it to the withdrawal of Cuban troops from Angola in any way. Both the U.N. General Assembly and the Organization of the African Unity have recognized SWAPO as the legitimate representative of the Namibian people and the Reagan Administration is obligated to negotiate with it as such.

19. Angola. Cuban troops are in Angola at the request of the legitimate government of Angola in order to protect it from overt and covert aggression mounted by the South African apartheid regime from Namibia. There is absolutely no international legal justification for South African aggression against Angola in order to maintain and consolidate its reprehensible occupation of Namibia. The Angolan government has repeatedly stated that when South Africa leaves Namibia it will request the withdrawal of Cuban troops, and Cuba has agreed to withdraw its troops whenever so requested by Angola. According to the relevant rules of international law, that is the proper sequence of events to be followed. The Reagan Administration's "linkage" of the presence of the Cuban troops in Angola with the independence of Namibia encourages South African aggression against Angola, and thus it must share in the responsibility for South Africa's genocidal acts against the people of Angola.

20. Indian Ocean. The Reagan Administration's continued military occupation of the is-

land of Diego Garcia violates the international legal right of self-determination for the people of Mauritius as recognized by the United Nations Charter. The Reagan Administration has accelerated the rapid militarization of the U.S. naval base on Diego Garcia as part of its plan to create a jumping-off point for intervention by the Rapid Deployment Force into the Persian Gulf. As such the Reagan Administration's foreign policy towards the Indian Ocean has violated the terms of the U.N. General Assembly's Declaration of the Indian Ocean as a Zone of Peace (1971).

F. Conclusion

21. United Nations Action. From the foregoing, it is clear that the Reagan Administration has substituted force for the rule of international law in its conduct of foreign policy around the world. It has thus created a serious threat to the maintenance of international peace and security under article 39 of the United Nations Charter that calls for the imposition of enforcement measures by the U.N. Security Council under articles 41 and 42. In the event the Reagan Administration exercises its veto power against the adoption of such measures by the Security Council, the matter should be turned over to the U.N. General Assembly for action in accordance with the procedures set forth in the Uniting for Peace Resolution of 1950. In this way the Reagan Administration's grievous international transgressions could be effectively opposed by all members of the world community in a manner consistent with the requirements of international law.

Both the Security Council and the General Assembly should also take into account the numerous interventionist measures taken by the Reagan Administration, whether direct or indirect, seeking to impose financial and economic policies which are contrary to the sovereign independence of states, specially in the developing world, which severely damage the quality of life for all peoples.