

No. 23142

**UNITED NATIONS
(UNITED NATIONS CHILDREN'S FUND)
and
NICARAGUA**

**Agreement concerning the activities of the United Nations
Children's Fund in Nicaragua (with memorandum of
understanding). Signed at Managua on 16 November 1984**

Authentic text: Spanish.

Registered ex officio on 16 November 1984.

**ORGANISATION DES NATIONS UNIES
(FONDS DES NATIONS UNIES POUR L'ENFANCE)
et
NICARAGUA**

**Accord concernant les activités du Fonds des Nations Unies
pour l'enfance au Nicaragua (avec mémorandum d'ac-
cord). Signé à Managua le 16 novembre 1984**

Texte authentique : espagnol.

Enregistré d'office le 16 novembre 1984.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE UNITED NATIONS CHILDREN'S FUND AND THE GOVERNMENT OF NICARAGUA

Whereas the United Nations Children's Fund (hereinafter called "UNICEF") was established by the General Assembly of the United Nations as an organ of the United Nations for the purpose of meeting, through the provision of supplies, training and advice, emergency and long-range needs of children, and their continuing needs particularly in developing countries, with a view to strengthening, where appropriate, the permanent child health and child welfare programmes of countries receiving assistance; and whereas the Government of Nicaragua (hereinafter called "the Government") desires UNICEF co-operation for the above purposes; now, therefore, UNICEF and the Government agree as follows:

Article 1. REQUESTS TO UNICEF AND PLANS OF OPERATIONS

1. This Agreement establishes the basic conditions and the mutual undertakings governing projects in which UNICEF and the Government are participating.

2. Whenever the Government wishes to obtain the co-operation of UNICEF, it shall inform UNICEF in writing, giving a description of the proposed project and the extent of the proposed participation of the Government and UNICEF in its execution.

3. UNICEF shall consider such requests on the basis of its available resources, its assistance policies and the need for assistance.

4. The terms and conditions for each agreed project, including the commitments of the Government and UNICEF with respect to the furnishing of supplies, equipment, services or other assistance, shall be set forth in a Plan of Operations to be signed by the Government and UNICEF, and when appropriate, by other organizations participating in the project. The provisions of this Agreement shall apply to each Plan of Operations.

5. The Government shall guarantee that the resources made available by UNICEF to Nicaragua shall be used in accordance with the agreed provisions of each Plan of Operations.

6. For the purposes of this Agreement, its implementation and the conclusion of Plans of Operations, the Government of Nicaragua shall be represented exclusively by the International Reconstruction Fund (FIR), notwithstanding the fact that appropriate executing agencies may be appointed for the implementation of the Plans of Operations. The term "Government" is used in this Agreement to mean FIR, unless in context it is more appropriate to take it to be a reference to the Government in general.

7. The amounts and the nature of the resources and supplies to be provided by UNICEF and the Government respectively in accordance with this Agreement shall be determined from time to time for such successive periods of operation as may be convenient, through mutual consultation and understanding between UNICEF and the Government and within the limits of the resources of UNICEF

8. UNICEF shall make no request for payment for the resources, supplies and services furnished by it under this Agreement or the Plans of Operations, except in the case of reimbursable purchases, where UNICEF shall act as the intermediary of the Government.

¹ Came into force on 16 November 1984 by signature, in accordance with article IX (1).

Article II. USE OF SUPPLIES, EQUIPMENT AND OTHER
ASSISTANCE FURNISHED BY UNICEF

1. While UNICEF shall retain full ownership of its supplies, equipment and other assistance furnished until consumed or used by the ultimate recipient for whom they are intended, the supplies and equipment furnished by UNICEF shall be transferred to the Government upon arrival in the country, except as, in the case of transport of large items of equipment, may be otherwise provided in the Plan of Operations. UNICEF reserves the right to require the return of any supplies or equipment furnished by it which are not used for the purposes of the Plan of Operations.

2. The Government shall take the necessary measures to ensure that the supplies and equipment and other assistance are distributed without discrimination because of race, creed, nationality or political belief, in accordance with the Plan of Operations. No beneficiary shall be required to pay for supplies furnished by UNICEF except to the extent that payment is expressly provided for in the applicable Plan of Operations.

3. UNICEF may arrange to place on the supplies and equipment furnished by it such markings as are deemed necessary by UNICEF to indicate that the supplies are provided by UNICEF.

4. The Government shall make the arrangements for and shall pay the expenses relating to the reception, unloading, warehousing, insurance, transportation and distribution of the supplies and equipment furnished by UNICEF, after their arrival in Nicaragua.

5. The Government shall use the assistance furnished by UNICEF in accordance with the approved Plans of Operations through the agencies or channels mutually approved from time to time by the Government and UNICEF.

6. No rationing plan in force in Nicaragua at the time of the approval of a Plan of Operations shall legally invalidate the provisions of this Agreement or of any Plan of Operations, which shall have precedence over any rationing plan in force in Nicaragua.

It is agreed that the resources provided by UNICEF are to be in addition to, and not in substitution for the allocations from the general budget of Nicaragua which the Government has established for similar activities.

Article III. EXPORTS

The Government agrees that it shall not expect UNICEF to furnish assistance or supplies under this co-operation Agreement if the Government exports any supplies of the same or similar character as those furnished by UNICEF or purchased with its assistance, except in such special circumstances as may arise which may be submitted to both Parties to this Agreement for consideration.

Article IV. ACCOUNTING AND STATISTICAL RECORDS AND REPORTS

The Government shall maintain such accounting and statistical records with respect to the execution of Plans of Operations as may be mutually agreed to be necessary, and shall furnish any such records and reports to UNICEF at its request.

Article V. CO-OPERATION BETWEEN THE GOVERNMENT AND UNICEF
AND PROVISION OF LOCAL SERVICES AND FACILITIES

1. UNICEF may maintain an office in Nicaragua and may assign authorized officers to visit or be stationed therein for consultation and co-operation with the appropriate officials

of the Government with respect to the review and preparation of proposed projects and Plans of Operations, and the shipment, receipt, distribution or use of the supplies and equipment furnished by UNICEF, and to advise UNICEF on the progress of the Plans of Operations and on any other matter relating to the application of this Agreement. The Government shall permit authorized officers of UNICEF to observe all the phases of execution of the Plans of Operations in Nicaragua.

2. The Government, in agreement with UNICEF, shall make arrangements for and provide funds up to a mutually agreed amount to cover the cost of the following local services and facilities:

- a) Establishment, equipment, maintenance and rent of the office;
- b) Local personnel required by UNICEF;
- c) Postage and telecommunications for official purposes;
- d) Transportation of personnel within the country and subsistence allowance.

3. The Government shall also facilitate the provision of suitable housing accommodation for international personnel of UNICEF assigned to Nicaragua.

Article VI. CLAIMS AGAINST UNICEF

1. The Government shall assume, subject to the provisions of this article, responsibility in respect to claims resulting from the execution of Plans of Operations within the territory of Nicaragua.

2. The Government shall accordingly be responsible for dealing with any claims which may be brought by third parties against UNICEF or its experts, agents or employees in case of any claims or liabilities resulting from the execution of Plans of Operations made pursuant to this Agreement, except where it is agreed by the Government and UNICEF that such claims or liabilities arise from the gross negligence or wilful misconduct of such experts, agents or employees.

3. In the event of the Government making any payment in accordance with the provisions of paragraph 2 of this article, the Government shall be entitled to exercise and enjoy the benefit of all rights and claims of UNICEF against third persons.

4. This article shall not apply with respect to any claims against UNICEF for injuries incurred by a staff member of UNICEF.

5. UNICEF shall place at the disposal of the Government any information or other assistance required for the holding of any case to which paragraph 2 of this article relates or for the fulfilment of the purposes of paragraph 3.

Article VII. PRIVILEGES AND IMMUNITIES

The Government shall apply to UNICEF, as an organ of the United Nations, to its property, funds and assets, and to its officials, the provisions of the Convention on the Privileges and Immunities of the United Nations¹ (to which Nicaragua became a Party on 29 November 1947). No taxes, fees, tolls or duties shall be levied on supplies and equipment furnished by UNICEF so long as they are used in accordance with the Plans of Operations. In addition, the Government of Nicaragua undertakes to permit the importation, free from all taxes, duties or fees, of greeting cards, advertising materials and other items related to the UNICEF Greeting Cards Operation, whether the importation is effected by the

¹ United Nations, *Treaty Series*, vol. 1, p. 15, and vol. 90, p. 327 (corrigendum to vol. 1, p. 18).

UNICEF office itself in Nicaragua or by an authorized distributing agent. The sale to the public of the said cards shall also be exempt from all taxes, duties or fees, it being understood that the proceeds from such sales shall be earmarked for UNICEF assistance programmes throughout the world.

Article VIII. PUBLIC INFORMATION

The Government shall co-operate with UNICEF in making available to the public adequate information concerning UNICEF assistance.

Article IX. GENERAL PROVISIONS

1. This Agreement shall enter into force on the date of signature.
2. This Agreement terminates the Agreement between UNICEF and Nicaragua of 17 January 1950.¹
3. This Agreement and the respective Plans of Operation may be modified by written agreement between the Parties thereto.
4. This Agreement may be terminated by either Party by notice. Notwithstanding any such notice of termination, this Agreement shall remain in force until the termination of all Plans of Operations.
5. In case of disagreement about the implementation of this Agreement which is not settled by negotiation or by any other mutually acceptable means, the matter shall be submitted to arbitration at the request of either Party.

Each Party shall appoint an arbitrator. A third arbitrator, appointed by the other two, shall be the Chairman. If either Party does not appoint an arbitrator within 30 days of the submission of the request for arbitration, or if the third arbitrator is not appointed within 15 days of the appointment of the first two arbitrators, then either Party may request the President of the International Court of Justice to appoint an arbitrator. The arbitrators shall adopt their rules of procedure, and the expenses arising from arbitration shall be apportioned to the Parties in amounts to be determined by the arbitrators. The arbitral award shall set forth the grounds on which it is based, and the Parties shall accept it as the final settlement of the disagreement.

IN WITNESS WHEREOF, the undersigned, duly appointed representatives of the Government and of UNICEF have, on behalf of the parties, respectively signed this Agreement.

For the Government:

Signature: [Signed]
Name: PEDRO A. BLANDON
Title: Minister-Director
Signed at: Managua, Nicaragua
Date: 16 November 1984

For the United Nations
 Children's Fund:

Signature: [Signed]
Name: JAMES GRANT
Title: Executive Director
Signed at: Managua, Nicaragua
Date: 16 November 1984

¹ United Nations, *Treaty Series*, vol. 65, p. 76.

MEMORANDUM OF UNDERSTANDING

The United Nations Children's Fund (hereinafter called "UNICEF"), and the International Reconstruction Fund (hereinafter called "FIR"), on the occasion of the discussions concerning the signing on the same date of a new Framework Agreement between UNICEF and the Government of Nicaragua,

Hereby agree:

1. To suspend the implementation of article 5, paragraphs 2 and 3 of the aforementioned Framework Agreement until the Parties, considering the extraordinary situation which the country is undergoing to be over, agree to the full effectiveness of such provisions. Until such time UNICEF shall continue to bear the expenses and costs referred to in article 5, paragraphs 2 and 3 with its own resources.

2. To authorize the sale of UNICEF Greeting cards, exempt from import duties.

The volume of such sales and their value shall be determined by the Ministry of Commerce, and transmitted to UNICEF through FIR. FIR shall arrange for the exemption from local sales taxes with the Ministry of Finance.

IN WITNESS WHEREOF, the undersigned have signed this Memorandum of Understanding in the city of Managua on 16 November 1984.

For UNICEF:

[Signed]

JAMES GRANT
Executive Director

For FIR:

[Signed]

PEDRO A. BLANDON
Minister-Director