



CONFIDENTIAL

Foreign and Commonwealth Office

London SW1A 2AH

27 June 1986

IF
to all, for
Tuesday; questions
CDP 28/6

Dear Charles,
US/Nicaragua

In my letter of 30 April I told you of the Foreign Secretary's intention to make the Government's position clear on the judgement of the International Court of Justice on the US/Nicaragua case.

The Court announced judgement against the US on 15 issues by a large majority today. I attach a copy of the main points of the judgement. You will note that the US judge has found against the US Government on two of the issues which the Court considered. We shall have to study the judgement as a whole which contains several hundred pages and will provide an assessment of it in due course. *

In response to requests for immediate comment, the Foreign Secretary has authorised News Department to issue a statement reflecting our adherence to the rules of international law and support for the Court. I attach a copy.

Yours ever,
Colin Budd

(C R Budd)
Private Secretary

C D Powell Esq
PS/10 Downing Street

PS Must in fact have
been Robert's
letter of 30/4.

PPS Re *. Sorry: not
attached: will follow
on Monday.

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[Revised draft with
additional points 4 & 5]

**ICJ JUDGMENT: US v NICARAGUA: DRAFT STATEMENT FOR USE BY
NEWS DEPARTMENT**

1. We have only just received the text of the judgment in this case. The Court has obviously considered the case very carefully and has reviewed thoroughly the evidence and facts presented to it.

2. The Court has now delivered a reasoned ^{and} detailed judgment. It is lengthy and will require careful study. Our reaction to it will reflect our adherence to the rules of international law which is fundamental to our foreign policy.

3. For many years we have accepted the jurisdiction of the Court and have invariably accepted its judgments in cases to which the UK was a party. We believe it plays a valuable role in international relations.

4. We note that Court's decision is confined to customary international law and the Treaty of Friendship, Commerce and Navigation between the US and Nicaragua. We note that the Court was almost unanimous over its findings with respect to the Treaty and that there was a substantial majority with respect to customary international law.

[if asked]:

5. We note with particular interest the finding about the mining of ports and the interruption of maritime communications. We made our position known at the time.

Question 1. Does HMG accept the judgment of the Court in this case?
Answer. We are not parties to this case. Not therefore called upon to accept the judgment. But we have invariably accepted the judgment of the Court in every case to which we have been a party.

Question 2. HMG criticised the mining of Nicaraguan water in 1984? Court upholds HMG's view?

Answer. Yes, we made it clear at that time that we deplored any

threats to navigation. As a maritime nation, we are committed to freedom of navigation, including innocent passage through the territorial sea and access to foreign ports for peaceful trade. That remains our position.

Question 3. UK Policy.

Answer. We support a negotiated settlement of the problems of Central America on the basis of the Contadora principles. We do not believe these problems can be solved by armed force.

NICARAGUA! Relations July 79

THE COURT

(1) BY ELEVEN VOTES TO FOUR,

DECIDES THAT IN ADJUDICATING THE DISPUTE BROUGHT BEFORE IT BY THE

APPLICATION FILED BY THE REPUBLIC OF NICARAGUA ON 9 APRIL 1984, THE COURT IS REQUIRED TO APPLY THE "MULTILATERAL TREATY RESERVATION" CONTAINED IN PROVISIO (C) TO THE DECLARATION OF ACCEPTANCE OF JURISDICTION MADE UNDER ARTICLE 36, PARAGRAPH 2, OF THE STATUTE OF THE COURT BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA DEPOSITED ON 26 AUGUST 1946:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, ODA, AGO, SCHWEBEL, SIR ROBERT JENNINGS, MBAYE, BEDJAQUI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES RUDA, ELIAS, SETTE-CAMARA AND NI.

(2) BY TWELVE VOTES TO THREE,

REJECTS THE JUSTIFICATION OF COLLECTIVE SELF-DEFENCE MAINTAINED BY THE UNITED STATES OF AMERICA IN CONNECTION WITH THE MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA THE SUBJECT OF THIS CASE;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGE ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

(3) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY TRAINING, ARMING, EQUIPPING, FINANCING AND SUPPLYING THE CONTRA FORCES OR OTHERWISE ENCOURAGING, SUPPORTING AND AIDING MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA, HAS ACTED, AGAINST THE REPUBLIC OF NICARAGUA, IN BREACH OF ITS OBLIGATION UNDER CUSTOMARY INTERNATIONAL LAW NOT TO INTERVENE IN THE AFFAIRS OF ANOTHER STATE;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

(4) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY CERTAIN ATTACKS ON

NICARAGUAN TERRITORY IN 1983-1984, NAMELY ATTACKS ON PUERTO SANDINO ON 13 SEPTEMBER AND 14 OCTOBER 1983; AN ATTACK ON CORINTO ON 10 OCTOBER 1983; AN ATTACK ON POTOSI NAVAL BASE ON 4/5 JANUARY 1984; AN ATTACK ON SAN JUAN DEL SUR ON 7 MARCH 1984; ATTACKS ON PATROL BOATS AT PUERTO SANDINO ON 28 AND 30 MARCH 1984; AND AN ATTACK ON SAN JUAN DEL NORTE ON 9 APRIL 1984; AND FURTHER BY THOSE ACTS OF INTERVENTION REFERRED TO IN SUBPARAGRAPH (3) HEREOF WHICH INVOLVE THE USE OF FORCE, INTERNATIONAL LAW NOT TO USE FORCE AGAINST ANOTHER STATE:

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IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE, BEDJAOUI, NI AND EVENSEN; JUDGES AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

(5) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY DIRECTING OR

AUTHORIZING OVERFLIGHTS OF NICARAGUAN TERRITORY, AND BY THE ACTS IMPUTABLE TO THE UNITED STATES REFERRED TO IN SUBPARAGRAPH (4) HEREOF, HAS ACTED, AGAINST THE REPUBLIC OF NICARAGUA, IN BREACH OF ITS OBLIGATION UNDER CUSTOMARY INTERNATIONAL LAW NOT TO VIOLATE THE SOVEREIGNTY OF ANOTHER STATE:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE, BEDJAOUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

BY TWELVE VOTES TO THREE

(6) BY TWELVE VOTES TO THREE,

DECIDES THAT, BY LAYING MINES IN THE INTERNAL OR TERRITORIAL WATERS OF THE REPUBLIC OF NICARAGUA DURING THE FIRST MONTHS OF 1984, THE UNITED STATES OF AMERICA HAS ACTED, AGAINST THE REPUBLIC OF NICARAGUA, IN BREACH OF ITS OBLIGATIONS UNDER CUSTOMARY INTERNATIONAL LAW NOT TO USE FORCE AGAINST ANOTHER STATE, NOT TO INTERVENE IN ITS AFFAIRS, NOT VIOLATE ITS SOVEREIGNTY AND NOT TO INTERRUPT PEACEFUL MARITIME COMMERCE:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC OLLIARD:

AGAINST: JUDGES ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

(7) BY FOURTEEN VOTES TO ONE,

DECIDES THAT, BY THE ACTS REFERRED TO IN SUBPARAGRAPH (6)

HEREOF, THE UNITED STATES OF AMERICA HAS ACTED, AGAINST THE REPUBLIC OF NICARAGUA, IN BREACH OF ITS OBLIGATIONS UNDER ARTICLE XIX OF THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF NICARAGUA SIGNED AT MANAGUA ON 21 JANUARY 1956:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, ODA, AGO, SETTE-CAMARA, SIR ROBERT JENNINGS, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD:

AGAINST: JUDGE SCHWEBEL

(8) BY FOURTEEN VOTES TO ONE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY FAILING TO MAKE KNOWN THE EXISTENCE AND LOCATION OF THE MINES LAID BY IT, REFERRED TO IN SUBPARAGRAPH (6) HEREOF, HAS ACTED IN BREACH OF ITS OBLIGATIONS UNDER CUSTOMARY INTERNATIONAL LAW IN THIS RESPECT:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, SCHWEBEL, SIR ROBERT JENNINGS, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD:

AGAINST: JUDGE ODA.

(9) BY FOURTEEN VOTES TO ONE,

FINDS THAT THE UNITED STATES OF AMERICA, BY PRODUCING IN 1983

A MANUAL ENTITLED "OPERACIONES PSICOLOGICAS EN GUERRA DE GUERRILLAS", AND DISSEMINATING IT TO CONTRA FORCES, HAS ENCOURAGED THE COMMISSION BY THEM OF ACTS CONTRARY TO GENERAL PRINCIPLES OF HUMANITARIAN LAW; BUT DOES NOT FIND A BASIS FOR CONCLUDING THAT ANY SUCH ACTS WHICH MAY HAVE BEEN COMMITTED ARE IMPUTABLE TO THE UNITED STATES OF AMERICA AS ACTS OF THE UNITED STATES OF AMERICA:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, SCHWEBEL, SIR ROBERT JENNINGS, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD:

AGAINST: JUDGE ODA.

(10) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY THE ATTACKS ON

NICARAGUAN TERRITORY REFERRED TO IN SUBPARAGRAPH (4) HEREOF,
AND BY DECLARING A GENERAL EMBARGO ON TRADE WITH NICARAGUA ON
1 MAY 1985, HAS COMMITTED ACTS CALCULATED TO DEPRIVE OF ITS
OBJECT AND PURPOSE THE TREATY OF FRIENDSHIP, COMMERCE AND
NAVIGATION BETWEEN THE PARTIES SIGNED AT MANAGUA ON 21
JANUARY 1956:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA,
MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWEBEL AND SIR ROBERT JENNINGS.

(11) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA, BY THE ATTACKS ON

NICARAGUAN TERRITORY REFERRED TO IN SUBPARAGRAPH (4) HEREOF, AND
BY DECLARING A GENERAL EMBARGO ON TRADE WITH NICARAGUA ON 1 MAY
1985, HAS ACTED IN BREACH OF ITS OBLIGATIONS UNDER ARTICLE XIX
OF THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE
PARTIES SIGNED AT MANAGUA ON 21 JANUARY 1956:

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA, MBAYE
BEDJAUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWABEL AND SIR ROBERT JENNINGS.

(12) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA IS UNDER A DUTY
IMMEDIATELY TO CEASE AND TO REFRAIN FROM ALL SUCH ACTS AS MAY
CONSTITUTE BREACHES OF THE FOREGOING LEGAL OBLIGATIONS;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA,
MBAYE, BEDJAUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWABEL AND SIR ROBERT JENNINGS.

(13) BY TWELVE VOTES TO THREE,

DECIDES THAT THE UNITED STATES OF AMERICA IS UNDER AN OBLIGATION

TO MAKE REPARATION TO THE REPUBLIC OF NICARAGUA FOR ALL INJURY
CAUSED TO NICARAGUA BY THE BREACHES OF OBLIGATIONS UNDER
CUSTOMARY INTERNATIONAL LAW ENUMERATED ABOVE;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, AGO, SETTE-CAMARA,
MBAYE, BEDJAUI, NI AND EVENSEN; JUDGE AD HOC COLLIARD;

AGAINST: JUDGES ODA, SCHWABEL AND SIR ROBERT JENNINGS.

(14) BY FOURTEEN VOTES TO ONE,

DECIDES THAT THE UNITED STATES OF AMERICA IS UNDER AN OBLIGATION
TO MAKE REPARATION TO THE REPUBLIC OF NICARAGUA FOR ALL INJURY
CAUSED TO NICARAGUA BY THE BREACHES OF THE TREATY OF FRIENDSHIP,
COMMERCE AND NAVIGATION BETWEEN THE PARTIES SIGNED AT MANAGUA ON
21 JANUARY 1956;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, ODA, AGO, SETTE-CAMARA,
SIR ROBERT JENNINGS, MBAYE, BEDJAUI, NI AND EVENSEN; JUDGE
AD HOC COLLIARD;

AGAINST: JUDGE SCHWABEL.

(15) BY FOURTEEN VOTES TO ONE,

DECIDES THAT THE FORM AND AMOUNT OF SUCH REPARATION, FAILING

AGREEMENT BETWEEN THE PARTIES, WILL BE SETTLED BY THE COURT,
AND RESERVES FOR THIS PURPOSE THE SUBSEQUENT PROCEDURE IN THE
CASE;

IN FAVOUR: PRESIDENT NAGENDRA SINGH; VICE-PRESIDENT DE
LACHARRIERE; JUDGES LACHS, RUDA, ELIAS, ODA, AGO, SETT-CAMARA,
SIR ROBERT JENNINGS, MBAYE, BEDJAQUI, NI AND EVENSEN; JUDGE
AD HOC COLLIARD;

AGAINST: JUDGE SCHWEBEL.

(16) UNANIMOUSLY,

RECALLS TO BOTH PARTIES THEIR OBLIGATION TO SEEK A SOLUTION TO

THEIR DISPUTES BY PEACEFUL MEANS IN ACCORDANCE WITH INTERNATIONAL
LAW.

AMENDMENT:

(6) BY TWELVE VOTES TO THREE,

LINE 4 SHOULD READ 'IN BREACH' .

LINE 5 'INTERNATIONAL LAW NOT (NOW TYPED INCORRECTLY)

MARGETSON

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