

PRIME MINISTER

UN SECURITY COUNCIL: NICARAGUA/ICJ DECISION

We face a difficult decision on how to vote in the Security Council on Nicaragua (A).

The Nicaraguans have tabled a resolution (B) which recalls the obligations of UN members to comply with the decisions of the International Court of Justice; and urges the US to comply with the Court's judgement that US military aid to the Contras was contrary to international law.

The Foreign Secretary says that our lawyers conclude that - unlike an earlier resolution in July - there are no legal grounds on which we could object to the text. To do anything other than vote for it would cast doubt on our position that adherence to international law is fundamental to our foreign policy. He also says that George Shultz knows of our difficulties and will not be surprised if we vote in favour.

On the other hand, we know how very important this issue is to the President. I am not sure that he would be as understanding as George Shultz. The Americans need very delicate handling at present. We don't want this issue to mar your visit. We want their support on Syria. And, most important, the whole exercise is a transparent manoeuvre by the Nicaraguans to put the Americans on the spot while deflecting attention from their own nefarious activities. Charlie Price has sent me a copy of his instructions (C).

It is difficult to find a reason to abstain. The only one I can think of is to argue that principles of international law are being manipulated and applied selectively for a transparently political end. We could not support a

resolution which was not demonstrably even-handed and made some reference to the corresponding need for Nicaragua to halt its subversive activities. It's not very strong - two wrongs don't make a right! - but we might just be able to squeeze by, if we also made a strong Explanation of Vote reaffirming our commitment to the legal principles involved and justifying our abstention on these political grounds.

Agree Foreign Secretary's recommendation that we should support the resolution? *I don't think we can*

or

Try the argument set out above in favour of abstention? *Yes*

C.D.P.

The resolution is so one-sided

(CHARLES POWELL)

(nothing about internal suppression, media, Church, etc)

23 October 1986

What I think we must abstain.

Otherwise I don't see how I can go to the U.S. on Nov 15th. Clearly the President expects us to abstain
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Foreign and Commonwealth Office

London SW1A 2AH

23 October 1986

Dear Charles,

UN Security Council: Nicaragua/ICJ Decision

The Prime Minister will wish to be consulted about our vote in the current Security Council debate. Nicaragua has returned to the Security Council following the formal approval of US Military aid to the Contras, which was judged to be contrary to international law by the ICJ decision in June. The Nicaraguan action is based on Article 94 of the Charter, which requires all States to comply with ICJ judgments and in default of compliance by one party permits the other party to have recourse to the Security Council.

No resolution has been tabled, but we have seen an advance draft which may be softened further before it is tabled. A vote is likely on 24 October.

My letter of 30 April warned that we were likely to be faced with a difficult voting decision in the Security Council on this issue. In the July vote, we were just able to justify an abstention on the grounds that the resolution and, more particularly, the debate raised a political issue with which we disagreed.

The US Government have again this time been lobbying in New York and London, but so far only at official level. The Foreign Secretary told Mr Shultz in July that this issue was a very difficult one for us in view of our position on international law (having already warned him in May that we should have to distance ourselves from the US on the ICJ decision). Mr Shultz acknowledged our difficulties and said only that the US would be obliged to "wince". He will not therefore be surprised if we support a straightforward UN resolution which upholds the UN Charter and the ICJ and reminds the US of their obligations.

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The Foreign Secretary believes a failure to support this resolution would cast doubt on our position that adherence to international law is fundamental to our foreign policy. The difficulties which this vote presents will be widely recognised. A positive vote would demonstrate that we are not willing to deviate from our principles on the question of upholding international law.

If the Prime Minister agrees with this approach the Foreign Secretary will explain to Mr Shultz that our position on international law requires us to support this resolution; and that an abstention in this case could undermine our joint interests in the longer term. In his view the transatlantic relationship is healthy enough to stand a demonstration of independence of judgement on a subject of this kind where we are known to disagree.

I am copying this letter to Michael Saunders (Law Officers Department).

Yours awr

(R N Culshaw)
Private Secretary

C D Powell Esq
PS/10 Downing Street

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NICARAGUA Relations: July 1979



[Faint, illegible handwritten text]

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Foreign and Commonwealth Office

London SW1A 2AH

23 October 1986

Dear Charles

UN Security Council: Nicaragua/ICJ Decision

Please refer to my earlier letter today about this debate.

We have now seen the text of the Resolution which will be tabled and on which a vote is likely tomorrow. I enclose a copy. Our Legal Advisers have looked very carefully at this, and conclude that there are no grounds in the text of the Resolution for an abstention.

This therefore reinforces our view that it would be right for the UK to vote in favour.

I am copying this letter with its enclosure to Michael Saunders (Law Officer's Department).

Yours ever

(R N Culshaw)
Private Secretary

C D Powell Esq
PS/10 Downing Street

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US/Nicaragua/ICTJ

①

Handwritten notes:
Mr Birch
Mr Edwards
Hofe

Handwritten notes:
referred from Nicaragua
Munoz the morning. The
is, I believe, the NAM approved version

The Security Council,

Having heard the statement made by the Minister of Foreign Affairs of the Republic of Nicaragua,

Recalling its Resolutions 530(1983) and 562(1985),

Aware that, according to the Charter of the United Nations, the International Court of Justice is the principal judicial organ of the United Nations and that each Member undertakes to comply with the decision of the Court in any case to which it is a party,

Considering that Article 36, paragraph 6, of the Statute of the Court provides that "In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court",

Taking note of the Judgment of the International Court of Justice of 27 June 1986 in the case of "Military and Paramilitary Activities in and against Nicaragua" (S/18221),

Having considered the events that have taken place in and against Nicaragua after the said Judgment, in particular, the appropriation by the United States of America of 100 million dollars to continue the financing of military and paramilitary activities in and against Nicaragua,

Emphasizes the obligation of states, under customary international law, not to intervene in the internal affairs of other states,

.../

/...2

(2)

1. Urgently calls for full and immediate compliance with the Judgment of the International Court of Justice of 27 June 1986 in the case of "Military and Paramilitary Activities in and against Nicaragua" (S/18221) in conformity with the relevant provisions of the Charter. ✓
2. Requests the Secretary-General to keep the Council informed on the implementation of this resolution. ✓

POINTS FROM THE DEPARTMENT, WHICH KIM GAVE TO ASSISTANT UNDER SECRETARY ROBIN FEARN TODAY (10/23) AT NOON:

NICARAGUA ICJ RESOLUTION

-- THE U.S. ATTACHES GREAT IMPORTANCE TO THIS ISSUE.

-- THERE IS NOTHING NEW IN THIS DEBATE. OUR VIEW OF THE ICJ DECISION HAS NOT CHANGED, AND WE CONSIDER NICARAGUA'S CURRENT ACTION AS ANOTHER STEP TO DEFLECT ATTENTION FROM ITS CONTINUING INTERNAL REPRESSION AND ITS UNWILLINGNESS TO ENGAGE IN GOOD-FAITH NEGOTIATIONS WITHIN THE CONTADORA PROCESS OR WITH ITS DEMOCRATIC OPPOSITION.

- OUR POSITION IS THAT THE COURT HAD NO BASIS FOR ASSERTING JURISDICTION IN THIS CASE.

- MANY OF THE COURT'S ASSERTIONS REGARDING THE PRINCIPLES OF INTERNATIONAL LAW HAD NO BASIS IN LEGAL AUTHORITY OR REASONING.

- THE COURT DID NOT GIVE APPROPRIATE WEIGHT TO THE SUBSTANTIAL EVIDENCE OF NICARAGUA'S SUBVERSIVE ACTIVITIES AMONG ITS NEIGHBORS OR TO IMPROVED HUMAN RIGHTS RECORD OF NICARAGUANS IN THE DEMOCRATIC OPPOSITION.

-- A TERMINATION OF U.S. SUPPORT FOR THE DEMOCRATIC RESISTANCE WOULD NOT BRING ABOUT PEACE. THE SANDINISTAS COULD ACHIEVE PEACE BY ENTERING INTO GOOD FAITH NEGOTIATIONS WITH THE RESISTANCE AND WITH THEIR NEIGHBORS.

-- THE U.S. REALIZES THAT YOUR GOVERNMENT MAY HAVE A DIFFERENT VIEWPOINT ON THE ICJ ISSUE, BUT ASKS THAT YOU NOT SUPPORT THE NICARAGUAN RESOLUTION WHICH IS INTENDED ONLY TO EMBARRASS THE U.S. IF YOU ARE UNABLE TO DO THIS, WE URGE THAT AT A MINIMUM YOU INSTRUCT YOUR UN PERMANENT REPRESENTATIVE TO ABSTAIN, AS WAS DONE IN THE UNSC VOTE ON THE SAME ISSUE IN JULY.

-- THE U.S. WILL NOT ACCEPT ANY RESOLUTION THAT DIRECTS IT TO COMPLY WITH THE ICJ DECISION.