

PRIME MINISTER

NICARAGUA

The Foreign Secretary is reluctant to accept your view (Flag A) that we should abstain on the Nicaraguan resolution. His reasons are in the attached letter (Flag B).

His arguments can all be countered, if you so wish:

- ✓ (i) he does not even deal with your basic point that the Nicaraguan resolution is one-sided and propagandistic. It is not put forward to sustain a legal point, but to score a political point. Why should we play their game?
- ✓ (ii) he takes much too narrow a view of what is at stake. Nicaragua doesn't matter to us: the United States does, very much, and particularly at present. It's no good totting up a balance sheet of where they have supported us and we supported them in the past. What matters is the future.
- ✓ (iii) there is no question of the United States complying with the ICJ judgement. So the exercise is futile.
- ✓ (iv) of course you are not saying that the ICJ itself has been manipulated. You are saying that Nicaragua is making political capital out of a legal issue.
- ✓ (v) it is absurd to argue that this is a purely legal issue. Would the UN even be considering this resolution if South Africa had obtained a judgement against Zambia for supplying funds to the ANC? Let's stay in the real world.
- ✓ (vi) Our own view on the legal issues can be restated perfectly satisfactorily by our representative

(after all we are only abstaining, not voting against).

(vii) when all is said and done, how on earth can we get ourselves in the position of voting for Nicaragua against the United States

It is true that the Attorney General has minuted (Flag C). But he did so before he saw your views (Flag A). His office assure me that, provided we do not quote legal grounds for our vote, he would not object if we were to abstain.

Agree to continue to insist on abstention?

Yes - very
firmly

or

Accept Foreign Secretary's advice that we should vote in favour.

No

C.D.P.

CHARLES POWELL

24 October 1986

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10 DOWNING STREET
LONDON SW1A 2AA

MS 2 CME
file CPC A

cc. M. Saunders,
Law Officers' Dept.

24 October 1986

From the Private Secretary

UNITED NATIONS SECURITY COUNCIL: NICARAGUA/
ICJ DECISION

Thank you for your letter of 23 October conveying the Foreign Secretary's recommendation that we should vote for the resolution tabled by Nicaragua in the Security Council calling on the United States to comply with the judgment of the International Court of Justice in the case of "Military and Paramilitary Activities in and against Nicaragua".

The Prime Minister acknowledges that there are no legal grounds to justify an abstention, and accepts of course the importance of sustaining our position on adherence to international law. But she takes the view that the Nicaraguan resolution is, in the light of what is actually happening in Central America, ludicrously one-sided. She believes that we could argue that principles of international law are being manipulated and applied selectively for a transparently political and propagandistic end. We should say that, while not challenging the position in law, we could not support a demonstrably unbalanced resolution which failed to make reference to the corresponding need for Nicaragua to halt its subversive activities in the region. On these grounds we would abstain in the vote. Our Explanation of Vote would reaffirm our commitment to the legal principles involved and justify our abstention on political grounds.

The Prime Minister doubts that reaction from the White House to a vote in favour of the resolution would be quite as mild as the State Department view reflected in your letter.

Charles Powell

Robert Culshaw Esq
Foreign and Commonwealth Office.



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Foreign and Commonwealth Office

London SW1A 2AH

24 October 1986

Dear Charles,

United Nations Security Council: Nicaragua/ICJ

Thank you for the letter you sent earlier today. We now understand a vote on the draft resolution is not likely until Monday 27 October.

The Foreign Secretary believes that an abstention on this resolution could not be credibly justified on the grounds advanced in your letter, particularly given the strong stand which this Government, and the Prime Minister personally, have taken on the rule of international law. Moreover one implication in the line suggested in your letter would be that the ICJ itself had been manipulated for political ends, which is not consistent with our position. You will have seen the Attorney General's views as set out today in Michael Saunders' letter.

The fact is that the resolution is entirely in accordance with the statute of the International Court. HMG (unlike the French Government) accept the compulsory jurisdiction of the International Court. Indeed we have in the past accepted the jurisdiction and the judgement of the ICJ when it has ruled against us. The Foreign Secretary believes that it would be impossible to explain convincingly why we do not accept that the US has an obligation to comply with an ICJ judgement (which would be the implication of an abstention on the resolution), when we have accepted this obligation in a case where judgement was given against ourselves.

The Foreign Secretary acknowledges that it is possible that the White House will be more disappointed by a positive UK vote than Shultz's reaction in May indicated. Indeed we understand that they are considering a message to the Prime Minister on the subject. However Sir Geoffrey Howe considers that we can put a strong case to the Americans that they should look at this from a wider perspective. We supported them on Libya. We have
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just taken very firm action on Syria which they have warmly welcomed. They on the other hand have voted against us on the Falklands issue in the General Assembly for several years, and will no doubt do so again in a month's time.

Conversely Sir Geoffrey Howe thinks that a vote in favour of the resolution would be widely seen as a confirmation of the UK's consistent stand on the rule of international law. He therefore very much hopes that the Prime Minister will agree on reflection that we should vote in favour of the resolution.

I am copying this letter to Michael Saunders.

Yours ever,
A C Galsworthy

(A C Galsworthy)
Private Secretary

C D Powell Esq
PS/10 Downing Street

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cc/c
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M.L. SAUNDERS
LEGAL SECRETARY

CDP
24/x.

24 October 1986

Robert Culshaw, Esq.,
Foreign and Commonwealth Office,
Downing Street,
LONDON, SW1.

Dear Robert,

UN SECURITY COUNCIL: NICARAGUA/ICJ JUDGMENT

I refer to your two letters of 23 October ^{*with CDP*} to Charles Powell.

The Attorney General agrees that an abstention on the draft Resolution attached to your second letter would not be consistent with our country's long-held support of the part played by the International Court of Justice in upholding the rule of law in international relations. A vote in favour is therefore indicated.

Yours sincerely,
Richard Powell.

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