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File

SUBJECT
MASTER



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Faxed to

HO, FCO and
Santiago 30/11

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From the Private Secretary

30 November 1998

Dear Andrew,

CALL BY CHILEAN FOREIGN MINISTER

As you know, the Chilean Foreign Minister called on John Holmes on the afternoon of 27 November. He was accompanied by the Chilean Ambassador and a note-taker.

Insulza started by saying that he would not be briefing the media on his discussions with HMG. He would, however, make clear the Chilean position when he spoke to them on 30 November. Continuing, Insulza said that the Chilean Government had made great efforts to internationalise human rights. He had signed off a statute on the International Criminal Court the previous day. He hoped the President would sign it next week. They wanted to be among the first to ratify.

Insulza said that from a legal point of view there was little to complain about the Lords' decision on the Pinochet case. They did not believe that a Head of State should have immunity in cases of severe crimes against humanity. The Pinochet case was now six weeks old. Four of these had been spent on habeas corpus. It had become a big issue around the world. Some saw the case as representing a new doctrine on human rights. In Chile people believed that Pinochet should be tried, but not by others. Those shouting at each other in the streets were doing so on the mistaken belief that he had already been convicted. The Government was concerned that the case was creating great unease in Chile. In a recent survey, 44 per cent felt the Government was correct to defend the right to try Pinochet in Chile, 44 per cent thought they were not doing enough. The rest were on the streets. From a human point of view, he sided with the victims. Nevertheless, the Spanish judge would not be able to call on witnesses. Any case would therefore be largely symbolic. It might be good for human rights around the world, but not for Chile. They had been guinea pigs for too long and did not want to be part of an experiment again. Pinochet was an

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extremely difficult and divisive issue in society. Ten per cent of Chileans were willing to die for Pinochet, 15-20 per cent wanted him tried. Everyone else wanted the problem to go away. That was why they wanted him back. The prospects of finding the truth and justice were better than ever before, although he could not guarantee judicial action if Pinochet were returned to Chile.

John Holmes asked how they might do this given the amnesty. Insulza said they could do four things:

- (i) interpret the amnesty law properly. It had been wrongly applied previously. People could still be investigated and tried, but could not go to prison. The courts had applied the amnesty in this sense since March;
- (ii) try all cases not covered by the amnesty, for example those committed before 1978;
- (iii) let existing cases against Pinochet continue. There were 14 such cases, and they were studying the possibility of the Government becoming party to these to ensure that there was no delay;
- (iv) set up a new commission on truth and reconciliation. The previous commission had noted that crimes had been committed by agents of the state, but had said nothing about what should be done about this. They were ready to re-establish the Commission, if this secured Pinochet's release.

Insulza said that Pinochet was finished in Chile. It was unlikely that he would be able to appear in public again. He would have to disappear from political life. His extradition would not lead to another coup, but it would disturb the political process. The transition in Chile had been unique. There had been no death of Franco, no Falklands War. The army had simply gone back to their barracks after the referendum.

In response, John Holmes said that he was grateful to Insulza for putting the case as he had. The present position was not of the Government's choosing. It was doing its best to deal with the situation it found itself in. The judicial process was continuing following the House of Lords' judgment. The Home Secretary would now have to take a decision on a quasi-judicial basis. This was not therefore a matter for collective Cabinet discussion or decision. The Prime Minister understood the position Chile found itself in. We did not want the issue

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to damage bilateral relations. We were well aware of the difficulties the case had created in Chile.

Insulza handed over a letter from President Frei (copy enclosed). He said that a delegation of Chilean Senators from all political parties might visit London next week. This would include representatives of the right and the left. Participation by the Socialist Party depended on some of the measures he had mentioned being agreed. It would, however, be a high-level visit led by the President of the Senate. They would request a call on the Prime Minister. John Holmes said that he could not commit the Prime Minister in advance. But we would look very carefully at this. The Ambassador said that the Lord Chancellor was the President of the Senate's opposite number, but a call appeared to be ruled out because he was the head of the judiciary. John Holmes confirmed that this might be difficult. Insulza said that they might call on the Speaker instead. The President of the Senate was also elected.

John Holmes asked about the position of the Socialist Party. Insulza said that their priority was to bring Pinochet to justice, if possible in Chile, but the main thing was to bring him to justice. He was a socialist himself, but he had met demonstrators in London who had called him a traitor. They were exiles who had never been back to Chile. They did not understand the delicacy of the situation. The problem the socialists faced was that they were best placed to win the next presidential elections. Ricardo Lagos had said that he would come to London, if he could take Pinochet back with him. But he feared that Lagos would be elected to lead a divided country. The Ambassador commented that Lagos saw the Prime Minister as a role model. If his plans had gone ahead, he would have been here at the time of Pinochet's arrest. The rightists were saying that the whole thing was the result of a left-wing plot involving the UK, France and Spain.

Insulza said that many people in Chile were distressed by the case. Pinochet was still very popular with the military. They felt humiliated. There were difficult days ahead while the Home Secretary decided whether to release him. They wanted to argue for release on compassionate grounds. Chile had better relations with the UK than they had had with any other European country for 150 years. John Holmes repeated that we did not want to damage these. The Ambassador said that obviously they would be. Insulza said that they would not do anything like recalling Ambassadors, but pressure was building. Chile's biggest naval delegation in the world was in London. There was nothing he could do to stop them leaving. John Holmes pointed out that there was huge

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pressure from the left in this country and the rest of Europe. Insulza said that he would go on to Spain to talk to the Spanish socialists. They had told him not to protest against Pinochet in the '80s. He would ask them what he was supposed to do now.

John Holmes said that he would brief the Prime Minister on Frei's letter and the points Insulza had made. The Ambassador said that whenever they raised political issues they were told that the decision was quasi judicial. But the House of Lords had said that they would not consider political points. That was for the Home Secretary. Insulza repeated that Pinochet should be released on compassionate grounds. He was a 83 year old sick man. John Holmes concluded that the Home Secretary was bound to treat the case as he would for anyone else.

I am copying this letter and enclosure to Mara Goldstein (Home Office), Sebastian Wood (Cabinet Office) and Glynn Evans in Santiago by fax.

Yours ever,

Philip

PHILIP BARTON

Andrew Patrick Esq
Foreign and Commonwealth office

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