

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files

Folder Title: JGR/Nicaragua (1 of 5)

Box: 34

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

Davis Robinson

- will prepare memo to NSC
- case proceeds w/ or w/out us. At least, case will go forward, possibility of higher reparations
- opinion clearly wrong
- many treaties requiring referral to ICJ, this decision said juris based on such treaty (Friendship, Commerce, Consular Rights).

Options:

1. stay [will lose] [no evidence other than intelligence]
2. walk [case will go forward, publicity for U.S.]
3. delay

Enforced by
U.N. Sec Council;
U.S. will veto

12/7 deadline for receipt of memo by NSC.

Attack on judges on board → question w/ 80 other treaties, acceptance of customary juris.

enforce by
attachment
around world (?)

US/UN: ask Sec Gen to investigate, have Sec. Council pre-empt the area.

Accept Court Decision, U.S. Urged

By Joanne Omang
Washington Post Staff Writer

Refusal by the United States to accept World Court jurisdiction over a suit condemning U.S. actions in Nicaragua would be "identical to the position of the Ayatollah Khomeini" in refusing to release the American hostages in Iran four years ago, an attorney for the Nicaraguan government said yesterday.

Paul Reichler, who represents Nicaragua before the International Court of Justice in The Hague, also called the World Court, joined Nicaragua's new ambassador to the United States, Carlos Tunnermann Bernheim, at a news conference.

They expressed "hope" that the United States will accept the court's decision Monday that it does have jurisdiction over Nicaragua's suit demanding an end to U.S. support for "military and paramilitary activities" against Nicaragua's leftist Sandinista government.

Nicaragua also is demanding \$250 million in compensation for war damages allegedly inflicted by U.S.-backed rebel forces.

Reichler said U.S. refusal to accept World Court jurisdiction would be a major break with U.S. tradition of backing the court's decisions, including its 1980 order that Ayatollah Ruhollah Khomeini release the hostages and return the U.S. Embassy in Tehran to American control.

"It would be ironic . . . and sad" for the Reagan administration to be "following in the footsteps of the Ayatollah Khomeini," Reichler said. He said the U.S. stand would be "identical" to Khomeini's.

Asked if he endorsed that view, Tunnermann said Reichler was speaking as an individual. "I make no comparisons with any other government," he said.

The United States argued that the case should come under the jurisdiction of the U.N. Security Council, not the World Court, in part because Nicaragua had never deposited formal documents of ratification of court jurisdiction.

The court rejected that view, and Tunnermann said yesterday that Nicaragua had demonstrated its adherence to the court in 1960 by turning over 18,000 square kilometers of territory to Honduras after a World Court ruling on their border dispute.

US mulls response to World Court ruling

• By Charlotte Selkowski
Staff writer of The Christian Science Monitor

Washington

On the eve of his second term, President Reagan finds himself on the horns of a foreign-policy dilemma: whether or not to accept the ruling of the World Court that it has jurisdiction to hear Nicaragua's suit against the United States for mining Nicaraguan harbors and supporting the anti-Sandinista rebels.

The issue has diplomatic, political, and moral implications.

If the United States refuses to take part in the court's consideration of the complaint, it will face international disapproval for defying a respected juridical body and the rule of law it professes to advocate.

The White House and State Department have expressed disappointment in the World Court ruling. American officials say a decision in the matter will be made as early as possible.

If it does participate as defendant in the suit, the US risks an eventual court finding that its paramilitary activities in Nicaragua violate international law and therefore should cease. Such a verdict, even if the court cannot enforce it, could be exploited for propaganda purposes.

It will be many months before the merits of the case are heard, but the ruling this week by the International Court of Justice (the World Court's official title) has touched off debate in the administration which the President alone can resolve. The court, rejecting the US argument that it had no jurisdiction in the case, ruled Monday, 15 to 1, to hear Nicaragua's complaint.

... Many legal
experts believe the
Reagan
administration
should choose the
option of arguing
the case. . . .

International legal experts differ on the soundness of the World Court's decision. Some believe, as US lawyers argued, that such a politically charged issue, involving armed conflict, should more properly be dealt with in the UN Security Council rather than by a limited juridical body. Others disagree. But now that the World Court has made its decision to hear the case, international lawyers say, the US would be wise to abide by that ruling. Other-

wise, they say, the country's moral standing in the world as a consistent supporter of an international order governed by law would be damaged.

"If the court ruled against the US, it would have a limiting effect on our freedom of action," says Lee Marks, the State Department's senior deputy legal ad-

Cont'd 20

viser during the Carter administration. "But the larger political question is whether the total freedom of action in Nicaragua, which is a temporal foreign policy issue, is more important than trying to uphold and increase respect for an international legal order and the role of the World Court."

The court's ruling was a "powerful vote," notes Mr. Marks, taken primarily not by third-world or communist nations but largely by judges from such friendly and allied countries as Britain, France, West Germany, and Japan.

Although the World Court has heard only about 30 cases since it was established in 1945, it has proved to be a useful forum and the US has strongly supported it. Earlier this year the court adjudicated a sea-boundary dispute between

Canada and the US. In 1980 the US took the Iranian hostage case to the court, whose decision against the Khomeini regime played a role in the ultimate release of the American prisoners.

"If we turn our back on the court, we could be accused of hypocrisy," says Herbert Hansell, former State Department legal adviser. "We would be proceeding in a diametrically opposite direction of our advocacy of the rule of law in world affairs — because the minute we get a decision we don't like, we send a signal that we pick up our marbles and go home."

Whatever the diplomatic risks, many legal experts say they believe that the Reagan administration should choose the option of arguing the case at The Hague (where the World Court sits). They say the US would be able to highlight legitimate arguments of collective self-defense and regional security in Central America. The very presentation of the US case would also bring pressure on the Nicaraguan government to desist from any threats to peace in the region.

"There is no way the US can get out of the present case," says W. T. Mallison, a legal scholar at George Washington University. "It seems to be taking, to its embarrassment, the same position Iran took in the hostage case — that this is a complicated political issue and therefore the court is the improper forum to litigate the case. But the US is following a very undesirable precedent, and if we do not even present our arguments, that would diminish our integrity."

Before the suit was brought last April, the Reagan administration suspended for two years US recognition of the court's jurisdiction with regard to Central America. But it did not give the required six months' notice to file its reservation, doing so only days before Nicaragua brought its complaint.

Some experts challenge the US government view that the court should not hear political questions. Mr. Hansell suggests that

there is no doctrine or principle which says the World Court should refrain from issues with political overtones, and that the US cannot require that the court renounce jurisdiction in such questions.

But, while supporting the court's ruling and urging the US to present its case, some specialists say they think there are substantive aspects of the case which the court should not get into.

Seymour J. Rubin, executive director of the American Society of International Law, says such issues as whether the Nicaraguans are fomenting revolution in El Salvador or the US is arming the Nicaraguan rebels are "inherently not susceptible of resolution at The Hague" and can be dealt with only in a political process. The mining of harbors and compensation for such action, however, are justiciable, he says.

Whether or not the White House decides to participate in the case, this week's judicial action is expected to bolster congressional opposition to renewing US aid to the *contra* rebels in Nicaragua.



'Contra' guard in Nicaragua

At the World Court

THE REAGAN administration made a tactical error by contending legalistically that the International Court of Justice had no jurisdiction to hear Nicaragua's complaint of American aggression. For the World Court, built on a United Nations design, is essentially a political body. No other case having to do with the use of force or a threat to the peace has ever come before it: these have always been accepted as political questions to be dealt with elsewhere. Given the David vs. Goliath aspect of this matter, however, it would have been only prudent to anticipate that the court might choose to hear the case. This it has now done, putting the United States in the uncomfortable position of appearing reluctant to be brought before international justice.

This leaves the administration with two things to do. First, it should openly accept the political nature of the forum and stoutly defend American national interests within it. The American policy is not particularly popular even among friends in Western Europe, whose judges were among those rejecting the American no-jurisdiction claim. Still, this country is not without a serious case. It can argue in the Hague, as it has argued at the United Nations and in other forums, that the respect for

law contemplated by the United Nations Charter is a two-way street: Nicaragua must be expected to stop its depredations against its neighbors, if the United States is expected to halt the measures it insists it takes for collective self-defense. Surely the Reagan administration has enough confidence in its policy to carry it to the Hague.

Meanwhile, something further has to be done about the CIA operations that are at the heart of Nicaragua's complaint: they should be stopped, finally and permanently. The purpose is not to get right with the World Court but to lift a burden from American policy. Nicaragua, scene of so many past American interventions, simply is not the right place to sustain this one. Support of the *contras* gets in the way of the other means—aid and diplomacy—available to the administration to fulfill American obligations to friends in Central America and to shift the struggle in the region toward more peaceful channels.

Committed as it is, the administration may not be ready to end the program for which it is being stung in world opinion. But there are other reasons to end it, and as it happens, the odds are strongly against congressional renewal of the requisite funding. A mooted of the case by this means would be a good idea.

THE WHITE HOUSE

WASHINGTON

January 11, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nicaraguan Refugees

You have asked for my views on a proposal to involve the President and the White House in fundraising efforts for a private organization, the Nicaraguan Refugee Fund. In particular, organizers of the Fund have requested a Roosevelt Room briefing for corporate CEOs from whom they would then solicit "seed money."

Established White House policy generally precludes use of White House facilities for fundraising for private organizations, no matter how laudable the efforts of the organization. The corporate CEOs targeted by the organizers of the Fund would doubtless perceive the solicitations as having official approval, which is not the case and cannot be the case. Accordingly, I must counsel against holding the briefing or any other function coordinated with fundraising for the Fund.

FFF:JGR:aea 1/11/85


cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 11, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 

SUBJECT: Nicaraguan Refugees

Bob Kimmitt has asked if you have any legal problems with the attached proposal to involve the President and the White House in efforts to raise funds for a new, private sector "Nicaraguan Refugee Fund." Faith Whittlesey has already been involved in establishing the organization, and the organizers want a January 22 Roosevelt Room briefing for corporate CEOs. They hope that, after the briefing, the CEOs "will then -- on their own -- find it in their hearts to pledge seed money" for the program. The organizers also plan a formal dinner in March, and hope the President will drop by.

I recommend stopping any White House involvement in this effort. I have no doubt of the bona fides of the organizers, but the White House generally does not lend its facilities for private fundraising. The corporate CEOs would doubtless view the solicitation from the "private" organization as having official backing if they learn about it at a White House briefing. A memorandum to Kimmitt is attached for your review and signature.

Attachment

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
 - H - INTERNAL
 - I - INCOMING
- Date Correspondence Received (YY/MM/DD) 1/17/85

Name of Correspondent: Bob Kemmitt

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Mexican Refugees

ROUTE TO:	ACTION	Tracking Date	Disposition	Completion Date
Office/Agency (Staff Name)	Action Code	YY/MM/DD	Type of Response Code	YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>8510110</u>		<u>1 1</u>
<u>WAT18</u>	Referral Note: <u>D</u>	<u>850111</u>	<u>S</u>	<u>850111</u> <u>COB</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE
WASHINGTON

0186

1/10/85



Fred Fielding:

Do you perceive any
legal problem with the attached
proposal?

Thanks -

Bob Kimmitt

MEMORANDUM

NATIONAL SECURITY COUNCIL

ACTION

January 8, 1985

MEMORANDUM FOR ROBERT C. MCFARLANE

FROM: WALTER RAYMOND, JR. *WR*
OLIVER NORTH *ON*

SUBJECT: Nicaraguan Refugees

Ollie North and I met with Edie Fraser of the Milner & Fraser Public Relations Agency to discuss the possibility of establishing a bi-partisan, private sector, Nicaraguan refugee fund. She has subsequently assumed the responsibility for publicizing this effort and is working closely with Faith Whittlesey, Otto Reich and Gil Robinson. The plan, which she has spelled out in Tab I calls for the establishment of an honorary committee (they will do no work) and a Council of Advisors (which will be active). Edie Fraser has already received the acceptance of most members of the honorary and advisory committees, including Bob Hope. These groups will provide high profile to a public relations effort to heighten the concern in the United States about Nicaraguan refugees. It is our hope that the educational campaign accompanying this effort, will cause people to raise basic questions about the type of political system that causes refugees in the first place. In short, the focus on Nicaragua, from a humanitarian point of view, should generate public attention about the character of the Sandinista system. There is no connection between their group and the FDN.

We have timed this campaign to commence in early March at a black tie affair in Washington. Our current hope is that the President could make a drop-in. We will have details shortly and submit a schedule proposal. There is planning now under way to have a first meeting with certain key corporate CEOs in Washington at the time of the inauguration. This meeting will probably take place Tuesday, 22 January in the Roosevelt Room at which time these key corporate leaders will receive a substantive briefing on Nicaragua. We will *le* handle the briefing, but would appreciate your agreement in principle to drop-by as an added incentive for attendance. It is hoped that the corporate executives will then--on their own--find it in their hearts to pledge seed money to press forward with the program and the formal March dinner. If the two sessions result in a sufficient amount of additional funds they will be utilized for both humanitarian and public diplomacy purposes. We would hope that you could be prepared to support this important public diplomacy initiative should it be raised at a senior staff meeting.

Recommendation

That you agree in principle *le* to drop-by the January 22 briefing in the Roosevelt Room. Time to be provided when scheduled.

Agree _____

Disagree _____

Attachment

Tab I Nicaraguan Refugee Fund Proposal

NRF GROUP MEETING ON NICARAGUAN REFUGEE FUND

As reviewed in our meeting this morning, I believe that we have a five pronged strategy. I will outline those below:

I) SEED MONEY AND THE "WHO'S WHO" OF SUPPORT

- a) We need to finalize the list of the Honorary and Advisory Committees and go with a core group for the stationery. Suggested time for this to be close of business Tuesday, January 8.
- b) At the 2:30 P. M. meeting with Faith Whittlesey, Bob Reilly, and Gil Robinson tomorrow, it is very important to determine the best method to raise from \$50,000 to \$100,000 seed money for the effort. This should be done prior to the major event.

The group agreed that a small briefing in the Roosevelt Room during the Inaugural is a good idea.

- Should this include the "kitchen cabinet"?
- Should Ed Meese be briefed and should he make that type of decision?

" We agreed that both Bob McFarlane and Faith Whittlesey are essential in making that decision.

- c) Could telephone calls be made to ensure the initial support. We can contemplate this between now and 2:30 P. M. tomorrow.
- d) With regard to additions to the Committees, attached is a list of corporate CEO's who should be the most receptive to joining the group and heading up a Dinner Development Committee, if necessary. Please review the names. Faith is certainly in the best position to add some very important people, as she has been closely attuned to the situation of external relations and corporate support.

II) INAUGURAL EVENT

- a) The best days would be Friday, January 18th, or Tuesday, the 22nd, but the best time for the "Who's Who" may differ. A decision should be made tomorrow as to whether we count the exclusive friends for "seed money" or the broader base of all those on the Honorary and Advisory Committees who happen to be in Washington.
- b) We need to print an invitation as soon as the decision is made regarding the type of briefing NRF will sponsor during the Inaugural. If all agree that Moya Lear serve as Chairman of the Advisory Committee, then we should consider the leadership of the Honorary Committee, as well (Helen Hayes, Bob Hope, et al).

If the briefing is Monday or Tuesday, I think I can get Bob Hope to attend.

III) MAJOR WASHINGTON KICK-OFF DINNER WITH PRESIDENT REAGAN

- a) || We have suggested March 5 or around that general time. Oliver || North is going to check further on the timing.
- b) We will be checking on strategic locations for the dinner. All that needs to be done is to ensure that a first class dinner, fine entertainment, and sufficient media. I have a team of some twenty people organized to assist on the dinner, once we have confirmed the final plans.
- c) Basic decisions, such as costs per invitation must be determined, as well as the desirability of having the program televised.

IV) THE EDUCATION CAMPAIGN

- a) It is essential to include as many groups as possible, with broad-base constituencies and to design a media and direct mail plan. We can present options on this within the next ten days.
- b) It has been decided that the State Department will coordinate, through Otto Reich, all information to ensure that the materials are accurate and realistic.

V) DISTRIBUTION

- a) The first question that everyone will begin to ask is, "Who will guarantee the direct distribution of supplies within Central America?" As we discussed this morning, Bill Walsh will have the best judgment, given the problems of some of the PVO organizations.
- b) It would seem important that this area be determined as soon as possible.

CORPORATION LIST FOR NICARAGUAN REFUGEE FUND

ALCOA

Aluminum Company of America
1501 Alcoa Bldg.
Pittsburgh, PA 15219
412-553-4545
CEO - Charles W. Parry

AMERICAN AIRLINES, INC.

P.O. Box 61616
Dallas, Fort Worth Airport, TX 75261
CEO - Albert V. Casey

ARCO

515 South Flower Street
Los Angeles, CA 90071
213-486-3511
CEO - William F. Kieschnick

BRISTOL MYERS

345 Park Avenue
New York, NY 10154
212-546-4000
CEO - Richard L. Gelb

CHASE MANHATTAN

#1 Chase Manhattan Plaza
New York, NY 10081
212-552-2222
CEO - Willard C. Butcher

COCA COLA

P.O. Box 1734
Atlanta, GA 30301
404-676-2121
CEO - Roberto C. Goizueta

DOW CHEMICAL

2030 Willard H. Dow Center
Midland, MI 48640
517-636-1000
CEO - Paul F. Orefice

EASTERN AIRLINES
Miami International Airport
Miami, FL 33148
305-873-2211
CEO - Frank Borman

EXXON
1251 Avenue of the Americas
New York, NY 10020
212-398-3000
CEO - Clifton C. Garvin, Jr.

GENERAL ELECTRIC
3134 Eastern Turnpike
Fairfield, CT 06431
203-373-2211
CEO - John F. Welch, Jr.

GTE
#1 Stamford Forum
Stamford, CT 06904
203-965-2000
CEO - Theodore F. Brophy

HANOVER FOODS
PO Box 471
Hanover, PA 17331
717-632-4477
Chairman - Alan Warehime

HILTON INTERNATIONAL CO.
Transworld Corp. Inc.
605 Third Avenue
New York, NY 10158
212-688-2240
Chairman - L. Edwin Smart

INTER-CONTINENTAL SERVICES CORP.
10600 Mashan
Overland Park, KS 66212
913-541-9220
Chairman - Jerome E. Baker

INTER NORTH
2223 Dodge Street
Omaha, NE 68108
402-633-4000
CEO - Sam F. Segnar

NESTLE
100 Bloomingdale Road
White Plains, NY 10605
914-682-6000
CEO - C.A. MacDonald

ACCOUNTING FIRMS

- 1) Peat, Marwick & Mitchell
- 2) Arthur Andersen
- 3) Arthur Young
- 4) Touche Ross
- 5) Price-Waterhouse
- 6) Coopers & Lybrand

SHELL OIL

#1 Federal Street
Boston, MA 02211
617-292-2000
CEO - John P. LaWare

SQUIBB

P.O. Box 4000
Princeton, NJ 08540
609-921-4000
CEO - Richard M. Furland

SUN COMPANY

100 Matsonford Road
Radnor, PA 19087
215-293-6000
CEO - Theodore A. Burtis

TEXACO

2000 Westchester Avenue
White Plains, NY 10650
914-253-4000
CEO - John K. McKinley

W.R. GRACE

1114 Avenue of the Americas
New York, NY 10036
212-819-9000
CEO - J. Peter Grace



NICARAGUAN REFUGEE FUND

The Nicaraguan Refugee Fund (NRF), a non-profit humanitarian organization, was established to raise funds for Nicaraguan Refugees in Central America. Contributions to the NRF will be used to purchase the basic necessities—foodstuffs and medicine. ALL CONTRIBUTIONS ARE TAX DEDUCTIBLE.

"You are to be commended in your efforts to relieve the suffering of the Nicaraguan refugees now in Honduras and Costa Rica.

I would encourage all persons of every faith to give to your fund. . ."

True Davis
U.S. Ambassador (Ret.)

THE NEED FOR ASSISTANCE

Funds are immediately needed to provide food and medical supplies for the increasing numbers of Nicaraguan refugees in Costa Rica and Honduras. The past four years, a reported estimate of 37,000 Nicaraguans have been displaced. Most are women and children, and approximately one-half are of Indian origin (Miskito, Sumo and Rama).

Although Honduras and Costa Rica have received the refugees, these countries are unable to provide sufficient housing, fresh water, food and medical assistance.

Advisory Board: The NRF Advisory Board is comprised of respected Americans experienced and/or concerned about refugee assistance. In its oversight capacity, the board identifies critical areas of need and ensures that NRF resources are allocated to provide maximum assistance.

DISTRIBUTION

- The management of the distribution effort will be monitored by refugee relief organizations established in Costa Rica and Honduras, to ensure all supplies are channeled toward the refugees directly.
- The Knights of Malta will monitor distribution in Costa Rica.
- Shipping, handling and distribution of all supplies will be closely monitored by representatives of NRF.

FACTS

- During the first six months of 1984, approximately 1,000 persons were leaving Nicaragua each month for safer havens.
- Most of the refugees are peasants. Many are living near the borders, hoping to return to their homeland.
- Among the approximate 11,500 new arrivals in Honduras, about 2,000 are heads of family (80% are women), and about 9,500 are dependents (60% of these are children under ten years of age.)
- The refugees are living outdoors, or in makeshift temporary shelters. Fresh water and sanitation facilities are severely lacking; undernourishment and diseases such as tuberculosis and internal parasites are widespread.
- It is estimated that \$60 is sufficient to provide a family of four with basic food and medical assistance for survival for one month.
- Over the past 4 years socio-economic and political factors in Nicaragua have generated a mobilization of Miskito, Rama and Sumo Indians as well as Ladinos.
- Nicaraguan Ladino refugees are mostly located in Jacaleapa and Teupasenti refugee camps/settlements in Honduras.
- Miskito, Rama and Sumo (herein classified as Miskito) Indian refugees are located in the Mocoron area of Honduras.
- Nicaraguan refugees in Costa Rica are located in the Tilaran and Limon refugee camps.
- The 1978 and 1979 civil war in Nicaragua caused over 100,000 people to flee. By 1980 an additional 40,000 Nicaraguans had to leave their homeland.
- An estimated 19,000-21,000 Miskito Indians and Ladinos are presently refugees in Honduras.
- In 1983 and 1984, as a result of attempted forced resettlement by the Nicaraguan government, more than 15,000 Miskito Indians sought asylum in Honduras' eastern province.
- Some 6,000 Ladinos in Southern Honduras currently receive little or no aid.

Source: The Honduran Government, UNHCR Publications and GAO (GAO/NSIAD-84-106-7/20/84)

FOR INFORMATION

For more information, please call the NRF in Washington, D.C., (202) 682-1680.

All contributions should be sent to "The Nicaraguan Refugee Fund," 1377 K Street, N.W., Suite 16, Washington, D.C. 20005.

HONORARY COMMITTEE
NICARAGUAN REFUGEE FUND

- 1) Mr. Robert Anderson
Chairman, Rockwell International
- 2) Mr. Frank Borman
Chairman, Eastern Airlines
- 3) Ms. Doris Day
Actress
- 4) Mr. Armand Hammer
President, Occidental Petroleum
- 5) Mr. Helen Hayes
Actress
- 6) Mr. Charlton Heston
Actor
- 7) Mr. Bob Hope
Actor
- 8) The Honorable Richard Schweiker
President, American Council of Life Insurance
- 9) Dr. Juanita Kreps
Duke University
- 10) Mr. John Denver
Performer
- 11) Ms. Mary Lou Retton
High Bar Productions
- 12) Mr. Roger Staubach
Staubach Company
- 13) Mr. W. Clement Stone
Chairman, Combined Insurance Company
- 14) Ms. Maureen Reagan
Republican National Committee
- 15) Mr. Roosevelt Grier
Athelete

- 16) Mr. Pat Boone
Performer
- 17) Mr. Joseph Coors
President, Coors Company
- 18) Mr. Ed McMahon
Performer
- 19) Mr. Tommy Todd
President, US. Jaycees

COUNCIL OF ADVISORS
NICARAGUAN REFUGEE FUND

- 1) John M. Albertine
President, American Business Conference
- 2) Lupe Anguiano
President, National Women's Employment & Education, Inc.
- 3) The Honorable Anne Armstrong
Chairman, President's Foreign Intelligence Advisory Board
- 4) Joe M. Baker, Executive Vice President
Association of the Wall and Ceiling Industries, Inc.
- 5) The Honorable Phillip M. Crane
Representative, State of Illinois
- 6) Mary Crowley, President & CEO
Home Interiors & Gifts
- 7) Justin Dart, Jr.
National Council on the Handicapped
- 8) The Honorable True Davis
U.S. Ambassador (Retired)
- 9) Mr. Edwin J. Feulner, Jr.
President, The Heritage Foundation
- 10) Jean Hails
Hails Construction
- 11) Wilson S. Johnson
Chairman, National Federation of Independent Business
- 12) Mrs. Sarah King
President,
Daughters of the American Revolution
- 13) The Honorable Fred Korth
Former Secretary of the Navy
- 14) Dr. Al C. Janney
President, American Association of Christian Schools
- 15) Sylvan M. Marshall, Esquire
Marshall, Leon, Weil & Mahoney

- 16) The Honorable Bill McCollum
Representative, State of Florida
- 17) Hanne Merriman
President, Garfinckels
- 18) Dr. Robert W. Miller
President, Freedom Foundation at Valley Forge
- 19) Betty S. Murphy, Esquire
Baker and Hostetler Law Firm
- 20) Dr. Alton Ochsner
Chairman, Caribbean Commission
- 21) Mr. Alan Ostar
President
American Association of State Colleges & Universities
- 22) Mrs. Sugar Rautbord
Philanthropist
- 23) Mr. Richard Schubert
President, American Red Cross
- 24) Dr. Othneil Seidon
Coalition for the Americas
- 25) Mr. John Silber
President, Boston University
- 26) Deborah Szekley
President, Inter-American Foundation
- 27) Alexander Trowbridge
President, National Association of Manufacturers
- 28) Ms. Linda Wachner
Fred Adler & Shaykin
- 29) Dr. William B. Walsh
President, Project Hope
- 30) Jeri Winger
President, General Federation of Women's Clubs

THE WHITE HOUSE

WASHINGTON

January 11, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Nicaraguan Refugees

You have asked for my views on a proposal to involve the President and the White House in fundraising efforts for a private organization, the Nicaraguan Refugee Fund. In particular, organizers of the Fund have requested a Roosevelt Room briefing for corporate CEOs from whom they would then solicit "seed money."

Established White House policy generally precludes use of White House facilities for fundraising for private organizations, no matter how laudable the efforts of the organization. The corporate CEOs targeted by the organizers of the Fund would doubtless perceive the solicitations as having official approval, which is not the case and cannot be the case. Accordingly, I must counsel against holding the briefing or any other function coordinated with fundraising for the Fund.

FFF:JGR:aea 1/11/85

cc: FFFielding
JGRoberts ✓
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 18, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS 

SUBJECT:

Briefing of Corporate Executives
on Nicaragua (Nicaraguan Refugees)

Bob Kimmitt has supplied additional facts concerning the proposed (and scheduled) Roosevelt Room briefing for corporate CEOs on Nicaragua, requested by the newly-organized Nicaraguan Refugee Fund. You will recall that you counseled against the briefing by memorandum dated January 11 (copy attached), on the ground that the White House should not be used for fundraising for a private organization. In his petition for rehearing Kimmitt argues that this policy will not be violated, since any fundraising will take place away from the White House after the briefing, at a reception hosted by the Fund at the Hay-Adams.

I suppose we could permit the briefing to take place -- Kimmitt suggests it is desirable from the standpoint of Administration policy -- but I think his "Chinese wall" argument is a bit artificial. The briefing and the later fundraising reception are a package, and will doubtless be perceived as such by the CEOs. Nonetheless, our policy is just that -- a policy rather than a legal requirement -- and if NSC strongly wants to hold the briefing, I have no problem with letting them do so, with as clear a wall between the White House and the subsequent fundraising as possible. A memorandum along these lines is attached; if you are inclined to stick to our guns I will be happy to draft a memorandum along those lines.

Attachment

THE WHITE HOUSE

WASHINGTON

January 18, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Briefing of Corporate Executives
on Nicaragua (Nicaraguan Refugees)

You have supplied additional facts concerning the proposed January 22 Roosevelt Room briefing for corporate CEOs, and have requested that I reconsider my opinion that the briefing would contravene White House policy against use of the White House for private fundraising. You stressed that any fundraising by the Nicaraguan Refugee Fund (NRF) would be restricted to a reception held away from the White House after the briefing.

Your attempt to separate the White House briefing from the subsequent fundraising strikes me as somewhat artificial, and I suspect many of the CEOs will perceive the two events as linked. Nonetheless, I would interpose no objection to the briefing if (1) it is your view that the briefing advances important White House policies in the area (apart from any desire to assist the NRF), and (2) every effort is made to ensure that the CEOs understand that the fundraising activities of the NRF are not endorsed or in any way sponsored by the Government.

FFF:JGR:aea 1/18/85

cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

January 17, 1985

MEMORANDUM FOR FRED F. FIELDING

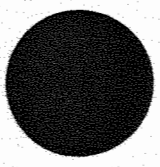
FROM: ROBERT M. KIMMITT *Bob*

SUBJECT: Briefing of Corporate Executives on Nicaragua

Thank you for your memorandum on White House policy concerning the use of White House facilities for fund raising. I have reviewed the proposed meeting schedule for January 22 in the Roosevelt Room and believe the purposes of this meeting are consistent with your guidelines. The corporate CEOs will be in the Roosevelt Room solely for the purpose of receiving a briefing on the political, military, economic and humanitarian situation in the Central American region, particularly in Nicaragua. Nicaraguan Refugee Fund (NRF), a 501(c)(3) (pending) organization, originally approached Bob Reilly of the White House Outreach Working Group and requested a briefing on these subjects. It is routine for the Office of Public Liaison, in cooperation with the NSC, to grant and even to encourage such requests. After the status of this group was checked, the request was granted and the briefing scheduled. It was made clear to the NRF from the first that the White House could not involve itself in fund raising. It is my understanding that the Nicaraguan refugee fund is hosting a small private reception later at the Hay Adams Hotel. If any fund raising is done it will be done by the private group, without White House participation and away from White House facilities.

This memo clarifies the earlier memo which I sent you and I hope will serve as the basis for your reconsideration concerning the appropriateness of the scheduled meeting in the Roosevelt Room. May we have your concurrence with the January 22 meeting with the explicit understanding that it will not be used in any way for raising funds?

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET



- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 / 1

Name of Correspondent: Robert M. Kimmitt

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Briefing of Corporate Executives on Nicaraguan (Nicaraguan) Refugees

ROUTE TO:	ACTION	DISPOSITION
Office/Agency (Staff Name)	Action Code Tracking Date YY/MM/DD	Type of Response Code Completion Date YY/MM/DD
<u>CEATON</u>	ORIGINATOR	<u>85 01 17</u>
<u>CEAT 18</u>	Referral Note: <u>D</u>	<u>S 85 01 18</u> <u>COB</u>
_____	Referral Note: _____	<u>1 / 1</u>
_____	Referral Note: _____	<u>1 / 1</u>
_____	Referral Note: _____	<u>1 / 1</u>
_____	Referral Note: _____	<u>1 / 1</u>

ACTION CODES:

- A - Appropriate Action
- I - Info Copy Only/No Action Necessary
- C - Comment/Recommendation
- R - Direct Reply w/Copy
- D - Draft Response
- S - For Signature
- F - Furnish Fact Sheet to be used as Enclosure
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- C - Completed
- B - Non-Special Referral
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

THE WHITE HOUSE

WASHINGTON

January 18, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Briefing of Corporate Executives
on Nicaragua (Nicaraguan Refugees)

You have supplied additional facts concerning the proposed January 22 Roosevelt Room briefing for corporate CEOs, and have requested that I reconsider my opinion that the briefing would contravene White House policy against use of the White House for private fundraising. You stressed that any fundraising by the Nicaraguan Refugee Fund (NRF) would be restricted to a reception held away from the White House after the briefing.

Your attempt to separate the White House briefing from the subsequent fundraising strikes me as somewhat artificial, and I suspect many of the CEOs will perceive the two events as linked. Nonetheless, I would interpose no objection to the briefing if (1) it is your view that the briefing advances important White House policies in the area (apart from any desire to assist the NRF), and (2) every effort is made to ensure that the CEOs understand that the fundraising activities of the NRF are not endorsed or in any way sponsored by the Government.

FFF:JGR:aea 1/18/85

cc: FFFielding

JGRoberts ✓

Subj

Chron



January 18, 1985

UNCLASSIFIEDMEMORANDUM FOR MR. ROBERT C. MCFARLANE
THE WHITE HOUSE

SUBJECT: Decision to Withdraw from the ICJ Case

Attached for the use of White House officials is a set of selected materials giving the essential arguments for the President's decision to withdraw from the Nicaragua/ICJ case. These materials include:

- The official announcement of US withdrawal from the case,
- Policy Themes for Public Briefings, and
- Selected Questions and Answers.

Separately we are providing copies of additional background material.

Nicholas Platt
Executive Secretary

Attachments

As stated

UNCLASSIFIED

US Withdrawal from the Proceedings Initiated by Nicaragua in the International Court of Justice

The United States has consistently taken the position that the proceedings initiated by Nicaragua in the International Court of Justice are a misuse of the Court for political purposes and that the Court lacks jurisdiction and competence over such a case. The Court's decision of November 26, 1984, finding that it has jurisdiction, is contrary to law and fact. With great reluctance, the United States has decided not to participate in further proceedings in this case.

US Policy in Central America

United States policy in Central America has been to promote democracy, reform, and freedom; to support economic development; to help provide a security shield against those -- like Nicaragua, Cuba, and the USSR -- who seek to spread tyranny by force; and to support dialogue and negotiation both within and among the countries of the region. In providing a security shield, we have acted in the exercise of the inherent right of collective self-defense, enshrined in the United Nations Charter and the Rio Treaty. We have done so in defense of the vital national security interests of the United States and in support of the peace and security of the hemisphere.

Nicaragua's efforts to portray the conflict in Central America as a bilateral issue between itself and the United States cannot hide the obvious fact that the scope of the problem is far broader. In the security dimension, it involves a wide range of issues: Nicaragua's huge buildup of Soviet arms and Cuban advisers, its cross-border attacks and promotion of insurgency within various nations of the region, and the activities of indigenous opposition groups within Nicaragua. It is also clear that any effort to stop the fighting in the region would be fruitless unless it were part of a comprehensive approach to political settlement, regional security, economic reform and development, and the spread of democracy and human rights.

The Role of the International Court of Justice

The conflict in Central America, therefore, is not a narrow legal dispute; it is an inherently political problem that is not appropriate for judicial resolution. The conflict will be solved only by political and diplomatic means -- not through a judicial tribunal. The International Court of Justice was never intended to resolve issues of collective security and self-defense and is patently unsuited for such a role. Unlike domestic courts, the World Court has jurisdiction only to the extent that nation-states have consented to it. When the

United States accepted the Court's compulsory jurisdiction in 1946, it certainly never conceived of such a role for the Court in such controversies. Nicaragua's suit against the United States -- which includes an absurd demand for hundreds of millions of dollars in reparations -- is a blatant misuse of the Court for political and propaganda purposes.

As one of the foremost supporters of the International Court of Justice, the United States is one of only 44 of 159 member states of the United Nations that have accepted the Court's compulsory jurisdiction at all. Furthermore, the vast majority of these 44 states have attached to their acceptance reservations that substantially limit its scope. Along with the United Kingdom, the United States is one of only two permanent members of the UN Security Council that have accepted that jurisdiction. And of the 16 judges now claiming to sit in judgment on the United States in this case, 11 are from countries that do not accept the Court's compulsory jurisdiction.

Few if any other countries in the world would have appeared at all in a case such as this which they considered to be improperly brought. Nevertheless, out of its traditional respect for the rule of law, the United States has participated fully in the Court's proceedings thus far, to present its view that the Court does not have jurisdiction or competence in this case.

The Decision of November 26

On November 26, 1984, the Court decided -- in spite of the overwhelming evidence before it -- that it does have jurisdiction over Nicaragua's claims and that it will proceed to a full hearing on the merits of these claims.

This decision is erroneous as a matter of law and is based on a misreading and distortion of the evidence and precedent:

--The Court chose to ignore the irrefutable evidence that Nicaragua itself never accepted the Court's compulsory jurisdiction. Allowing Nicaragua to sue where it could not be sued was a violation of the Court's basic principle of reciprocity, which necessarily underlies our own consent to the Court's compulsory jurisdiction. On this pivotal issue in the November 26 decision -- decided by a vote of 11-5 -- dissenting judges called the Court's judgment "untenable" and "astonishing" and described the US position as "beyond doubt." We agree.

--El Salvador sought to participate in the suit to argue that the Court was not the appropriate forum to address the Central

American conflict. El Salvador declared that it was under armed attack by Nicaragua and, in exercise of its inherent right of self-defense, had requested assistance from the United States. The Court rejected El Salvador's application summarily -- without giving reasons and without even granting El Salvador a hearing, in violation of El Salvador's right and in disregard of the Court's own rules.

The Court's decision is a marked departure from its past, cautious approach to jurisdictional questions. The haste with which the Court proceeded to a judgment on these issues -- noted in several of the separate and dissenting opinions -- only adds to the impression that the Court is determined to find in favor of Nicaragua in this case.

For these reasons, we are forced to conclude that our continued participation in this case could not be justified.

In addition, much of the evidence that would establish Nicaragua's aggression against its neighbors is of a highly sensitive intelligence character. We will not risk US national security by presenting such sensitive material in public or before a Court that includes two judges from Warsaw Pact nations. This problem only confirms the reality that such issues are not suited for the International Court of Justice.

Longer-Term Implications of the Court's Decision

The Court's decision raises a basic issue of sovereignty. The right of a state to defend itself or to participate in collective self-defense against aggression is an inherent sovereign right that cannot be compromised by an inappropriate proceeding before the World Court.

We are profoundly concerned also about the long-term implications for the Court itself. The decision of November 26 represents an overreaching of the Court's limits, a departure from its tradition of judicial restraint, and a risky venture into treacherous political waters. We have seen in the United Nations, in the last decade or more, how international organizations have become more and more politicized against the interests of the Western democracies. It would be a tragedy if these trends were to infect the International Court of Justice. We hope this will not happen, because a politicized Court would mean the end of the Court as a serious, respected institution. Such a result would do grievous harm to the goal of the rule of law.

These implications compel us to clarify our 1946 acceptance of the Court's compulsory jurisdiction. Important premises on which our initial acceptance was based now appear to be in doubt in this type of case. We are therefore taking steps to clarify our acceptance of the Court's compulsory jurisdiction in order to make explicit what we have understood from the beginning, namely that cases of this nature are not proper for adjudication by the Court.

We will continue to support the International Court of Justice where it acts within its competence -- as, for example, where specific disputes are brought before it by special agreement of the parties. One such example is the recent case between the United States and Canada before a special five-member Chamber of the Court to delimit the maritime boundary in the Gulf of Maine area. Nonetheless, because of our commitment to the rule of law, we must declare our firm conviction that the course on which the Court may now be embarked could do enormous harm to it as an institution and to the cause of international law.

Policy Themes for Public Briefings

- The Central American conflict is clearly a broad conflict with political, social, economic, and security dimensions. It will only be resolved by political and diplomatic means, not by a judicial tribunal.
- It is also not a bilateral dispute between the United States and Nicaragua. Other countries of Central America are victims of Nicaraguan aggression.
- This suit is a cynical misuse of the ICJ by Nicaragua for political and propaganda purposes. A Marxist-Leninist regime, whose ideology bears nothing but contempt for international law, is trying here to use our own respect for law against us, exploiting the legal process as a political weapon against the democracies which have always been the main bulwark of international law.
- US policy in Central America is addressing all the dimensions of the problem -- through diplomacy (support for Contadora, Shlaudeman-Tinoco talks); economic aid (Jackson Plan); support for democracy (free elections, human rights); and providing a security shield (security assistance, training) in accordance with the inherent right of collective self-defense.
- Our main grievance is with Nicaragua, which is committing aggression against its neighbors. We are sorry the Court let itself be misused by Nicaragua.
- A basic issue of sovereignty is involved. The World Court can function only with the consent of sovereign states. There was no US consent in this case.
- The President and the Congress, not the World Court, will continue to decide when our national interest requires the United States to act in exercise of the inherent right of individual or collective self-defense.

- The Court was unwise to venture, for the first time, into such treacherous political waters as the Central American conflict. Such a course is very risky for the Court. Our own Supreme Court stays out of highly political cases; the ICJ has even more reason to exercise such restraint, since its role and authority within the world community are less secure and more narrowly defined and since, unlike a US court, the ICJ is dependent on the consent of the parties.

- The Court's conduct in this case -- its departure from its usual cautious treatment of jurisdictional questions; its refusal of El Salvador's application to intervene; and other aspects -- also raise questions about whether the United States could get a fair hearing in this case. The Court seemed predisposed to take the case and to find for Nicaragua.

- We have seen in the United Nations in recent years how international organizations have become more and more politicized against the interests of the Western democracies. It would be tragic if these trends were to infect the World Court. We hope this will not happen, because a politicized Court would mean the end of the Court as a serious, respected institution.

W0240S

Q. Isn't this inconsistent with traditional American respect for international law?

A. Not at all. We continue to respect the World Court when it acts within its competence. This lawsuit by Nicaragua is a misuse of the Court for political and propaganda purposes. We are concerned, in fact, that Nicaragua's cynical action -- and the Court's unwarranted assertion of jurisdiction -- could themselves do serious harm to the Court and to the cause of international law.

Q. Isn't this an admission that we were likely to lose?

A. We are withdrawing from the case because we believe the Court has no authority or competence over cases involving such issues of collective security and self-defense. The Court's handling of the case to date also raises serious questions about whether we are likely to get a fair hearing in this case.

Q. What happens if the Court proceeds with the case without us, decides against us in the end, and assesses damages against us?

A. That's hypothetical. We will face those issues if and when they happen.

Q. Doesn't this show that the U.S. prefers a military solution rather than a peaceful solution in Central America?

A. No. Our policy in Central America is to promote democracy, economic progress, and a negotiated solution to the conflict. The conflict is a broad and complicated one involving a number of countries and many issues. It cannot be solved by a judicial tribunal, but only by political and diplomatic means such as the Contadora process, which we support. US military assistance provides a shield behind which other elements of our policy (political, economic, and diplomatic) can advance.

Q. Doesn't this make the U.S. look like an outlaw nation -- first mining Nicaragua's harbors illegally and then showing contempt for the World Court?

A. The central problem in Central America is Nicaragua -- its militarism, its subversion of its neighbors, its alliance with Cuba and the USSR, and its totalitarian system. Nicaragua's lawsuit is a propaganda exercise and a diversion from the main issues.

Our policy in Central America is to promote democracy, economic progress, and a negotiated solution. That's the right policy. This legal proceeding cannot contribute to a solution.

THE WHITE HOUSE

WASHINGTON

January 18, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Nicaragua ICJ

You have asked for my views on a proposal that the United States remain, at least for the present, in the litigation before the International Court of Justice. I agree that we should remain the the case for now, to avoid criticism from the Hill, the profession, and the media that would seriously undermine our pending efforts to obtain aid for the Contras. Likewise, we want to get beyond the ABA mid-winter meeting. In other words, while we may well decide to decline to participate in the case at some point in the future, now is not the time to do so.

I must emphasize, however, that the question of our continued participation in the case must be periodically reassessed. Our participation should be reviewed on a regular basis, and after any significant developments in the case or on related matters that might affect the case. If we must leave the case at some point -- which seems to be a distinct possibility -- we must be alert for the best time to do so, and not simply let the conduct of the litigation sweep us along to what all agree will be an unfavorable decision.

FFF:JGR:aea 1/18/85
cc: FFfielding
JGRoberts ✓
Subj
Chron

THE WHITE HOUSE
WASHINGTON

January 16, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nicaragua ICJ

You have asked for my views on a proposal that the United States remain, at least for the present, in the litigation before the International Court of Justice. I agree that we should remain the the case for now, to avoid criticism from the Hill, the profession, and the media that would seriously undermine our pending efforts to obtain aid for the Contras. In other words, while we may well decide to decline to participate in the case at some point in the future, now is not the time to do so.

*Lehman, we
want to get
beyond the ASA
mid-winter
meeting.*

I must emphasize, however, that the question of our continued participation in the case must be periodically reassessed. Our participation should be reviewed on a regular basis, and after any significant developments in the case or on related matters that might affect the case. If we must leave the case at some point -- which seems to be a distinct possibility -- we must be alert for the best time to do so, and not simply let the conduct of the litigation sweep us along to what all agree will be an unfavorable decision.

THE WHITE HOUSE

WASHINGTON

January 16, 1985

MEMORANDUM FOR ROBERT KIMMITT
DEPUTY ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Nicaragua ICJ

You have asked for my views on a proposal that the United States remain, at least for the present, in the litigation before the International Court of Justice. I agree that we should remain the the case for now, to avoid criticism from the Hill, the profession, and the media that would seriously undermine our pending efforts to obtain aid for the Contras. In other words, while we may well decide to decline to participate in the case at some point in the future, now is not the time to do so.

I must emphasize, however, that the question of our continued participation in the case must be periodically reassessed. Our participation should be reviewed on a regular basis, and after any significant developments in the case or on related matters that might affect the case. If we must leave the case at some point -- which seems to be a distinct possibility -- we must be alert for the best time to do so, and not simply let the conduct of the litigation sweep us along to what all agree will be an unfavorable decision.

FFF:JGR;aea 1/16/85

cc: FFfielding
JGRoberts
Subj
Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 / 1 /

Name of Correspondent: Robert Kimmitt

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Nicaragua ICTJ

ROUTE TO:	ACTION	DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CUHOW</u>	ORIGINATOR	<u>8510116</u>		<u> 1 / 1 / </u>
	Referral Note:			
<u>CUFIEL</u>	<u>I</u>	<u>8510116</u>		<u> 1 / 1 / </u>
	Referral Note:			
<u>CUAT 04</u>	<u>A</u>	<u>8510116</u>	<u>S</u>	<u>8510116</u>
	Referral Note:	<u>ASAP</u>		
<u>CUAT 18</u>	<u>A</u>	<u>8510116</u>		<u> 1 / 1 / </u>
	Referral Note:			
		<u> 1 / 1 / </u>		<u> 1 / 1 / </u>
	Referral Note:			

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet
to be used as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, OEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

1/16/85

Fred Fielding:

As discussed, the Contra aid issue will be our most difficult on the Hill. (See attached memo.) It is this realization, and the President's desire to proceed in spite of the obstacles, that persuades us that we should not aid our opponents by withdrawing from the ICJ case at this point.

Awaiting your call.

Bob Kinnitt

THE WHITE HOUSE

WASHINGTON

January 10, 1985

MEMORANDUM FOR JAMES A. BAKER, III
ROBERT MCFARLANE ✓

FROM: M. B. OGLESBY, JR. 150
W. DENNIS THOMAS
PAMELA J. TURNER

SUBJECT: Nicaragua Legislative Strategy

The attached is intended to outline suggested activities and probable timeframe for the Nicaragua vote. Time is short.

The necessity for broader public understanding of the issues is critical to our ability to build understanding in the Congress. One of the principal problems we face is that the only constituent reaction many Members get is from those who oppose our policy based on information from special interest activist organizations. Where information available to us differs substantially from that expressed to many Members, e.g. religious and human rights abuse, broader public dissemination of that information could help defuse some of the opposition expressed to the Members and thence to us.

THE WHITE HOUSE

WASHINGTON

The House has voted for the last 2 years to prohibit U.S. assistance to the Contras. The last vote to prohibit such assistance was 241-177. Under current law, \$14 million could be made available after February 28, 1985, but only after the President certifies the need for it, and it is approved by both Houses of Congress.

The Senate has been somewhat more supportive in terms of aid to the Contras, having defeated several attempts to restrict or eliminate this funding. Some of these votes were extremely close (47-43) and the Senate did ultimately agree to the barring of funds pending further Congressional approval. This year's outlook in the Senate is less certain. There will be several membership changes on the SSCI. Incoming Chairman Durenberger has publicly indicated his own doubts about continued covert assistance and we can expect more resistance from other Members as well.

In order to reach 218 votes in the House for this program we need to pick up 41 votes from the last vote. This means not only gaining the understanding and support of new Members, but convincing incumbent Members to reverse their position on previous votes. In the Senate, we will need to reaffirm our previous support, working in particular with the new Senate leadership, the SSCI, and the seven new Members of the Senate.

This will entail a broad based effort in which our policy needs to be effectively presented not only to the Congress, but to the general public.

Problems and Perceptions:

- 1) An important factor in the acceptability of this program to the Congress is its perceived importance to the security of other Latin American countries, and to the interests of the people of Nicaragua. The credibility of our programs and overall policy is seriously damaged if other Central American leaders suggest there is no threat from Nicaragua or that support for the Contras is contrary to their own and regional interests.
- 2) Similarly, credibility of our policy is seriously damaged by perceptions fostered by respected institutions (e.g. religious and human rights organizations) that the Contras are responsible for terrorist acts, killings and human rights abuse.

- 3) Acceptance of our policy is further hampered by a general lack of public knowledge and understanding of the area, the issues, and their strategic importance to the U.S.
- 4) Thus, an effort to reverse Congressional votes on this issue will require more than a series of Congressional contacts. An effective effort must entail a broader understanding among the American public and our hemispheric neighbors of the significance of this program.

Assistance to the Contras should not be projected as an end in itself; as the sole determining factor in our entire Central American policy; or as support for an effort to overthrow the existing government. To enhance acceptability, a policy of support for the Contras should be presented as

- one element in a multi-faceted program to pressure the Sandinistas to cease exporting revolution and open up their own society;
- a significant means of assisting President Duarte and the democratic reforms in El Salvador;
- a tightly controlled, targeted program to bring about legitimate reforms, reforms which are recognized by people within Nicaragua and leaders of neighboring nations as beneficial to altering the aggressive and repressive policies of the Sandinistas.

Recommendations:

- 1) Interagency Task Force to coordinate information campaign - State, NSC, CIA, DOD, WH/OPL/OLA
- 2) Public Outreach effort (OPL, State, DOD)
 - continued efforts to provide information to the media - major markets and local press placements
 - speaking tours - Administration officials, Congressional representatives, Central American experts and citizens to speak to local civic groups, town meetings, radio and T.V. talk shows
 - interest group contacts

- stress commercial interests tied to strategic importance of area
- provide accurate information on human rights and religious situation to interested groups
- designate senior Administration officials to articulate policy

3) Diplomatic outreach (State)

- continue efforts with other Latin American leaders to enhance understanding of security threat and U.S. efforts to counter that threat
- seek more public support for U.S. and joint efforts

4) Congressional Activities (State, WH/OLA)

a) provide general information on U.S. interests and policy in Central America

- distribute policy paper to all Members (OLA-early February)
- general briefings for Congressional staff (OLA/OPL-late January)
- orientation briefing for new Members (State/NSC-in February)

b) individual consultations and detailed briefings (late January)

- detailed briefings for key committee Members and staff (State/NSC)
 - Fascell, Broomfield, Barnes, Lagomarsino, Hamilton, Stump, Obey, Kemp, Aspin, Dickinson
 - Dole, Byrd, Durenberger, Leahy, Lugar, Pell, Kasten, Inouye, Stevens, Stennis, Goldwater, Nunn
- detailed briefings for key Members (late January-State/NSC)

- Senate GOP Leadership:
Dole Simpson
Chafee Cochran
Armstrong Laxalt
Heinz Thurmond

- Key Senate Democrats:
Johnston Boren
Heflin Bentsen
Chiles Moynihan

- New Senate Members:
McConnell Harkin
Kerry Simon
Gore Gramm
Rockefeller

- core group (suggested):
Murtha Coleman
Stenholm Hyde
Ray Lagomarsino
Daniel Livingston

- CDF (Stenholm)
- House Republican Task Force (T. Coleman)
- House Republican leadership
- House Republican Whip organization
- House Democratic leadership

c) individual meetings and phone calls by President and/or Vice President as needed during consideration of implementing legislation.

d) legislation

- introduction of resolution approving funding for Contras (when appropriate)
- Intelligence Authorization consideration (Feb.-May)
- HFAC consideration of Central America policy and foreign aid authorization (Feb.-May)
- HAC consideration of appropriations request (Feb.-June)

