

# TELEGRAM

Foreign Service of the  
United States of America

INCOMING

AMEMBASSY BRASILIA WED

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TO ALL DIPLOMATIC POSTS

RUMJDH/AMCONSUL HONG KONG 6329

RUESJR/AMCONSUL JERUSALEM 2190

RUEHCR/AMCONSUL BELIZE 1305

RUE CR/AMCONSUL CURACAO 0619

RUE PCQ/AMCONSUL LOURENCO MARQUES 0925

RUESFDA/AMCONSUL LUANDA 0990

RUYRSA/AMCONSUL NAHA 0717

RUEHCR/AMCONSUL NASSAU 1189

RUEHCR/AMCONSUL PARAMARIBO 0602

RUEHCR/AMCONSUL SUVA 1304

RUEHCR/AMEMBASSY BATHURST 0957

RUEIVC/USINT CAIRO 8442

RUFJCX/AMEMBASSY NOUAKCHOTT 0452

RUQVCR/USINT SANAA 0544

RUESMDQ/AMEMBASSY SANTA ISABEL 0499

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INFORM CONSULS AS APPROPRIATE SUBJECT: SUPREME COURT DECISION  
IN THE TIMES AND POST CASES

THE TEXT OF THE SECRETARY OF STATE'S AND THE ATTORNEY GENERAL'S  
STATEMENTS OF JULY 1 ON THE SUPREME COURT DECISION FOLLOW:

STATEMENT BY SECRETARY OF STATE WILLIAM P. ROGERS

THIS NATION IN THE LAST WEEK HAS HAD A MOST DIFFICULT PROBLEM  
TO RESOLVE. TWO FUNDAMENTAL CONSTITUTIONAL PRINCIPLES HAVE BEEN  
IN CONFLICT: THE DUTY OF THE EXECUTIVE BRANCH TO PROTECT THE  
NATIONAL SECURITY AND THE RIGHTS OF A FREE PRESS.

THE EXECUTIVE BRANCH HAD THE CONSTITUTIONAL OBLIGATION TO ENFORCE  
THE LAWS ENACTED BY THE CONGRESS, AND IT TOOK APPROPRIATE STEPS  
TO DO SO. I WOULD LIKE TO EMPHASIZE THAT THE GOVERNMENT SOUGHT  
THE JUDGMENT OF THE COURTS IN THIS CASE NOT FOR THE PURPOSE OF  
ABRIDGING THE RIGHTS OF A FREE PRESS, BUT RATHER TO SAFEGUARD THE  
SENSITIVE INFORMATION WHICH, IF DISCLOSED, COULD HARM THIS COUNTRY'S  
POSITION IN THE WORLD.

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AS JUSTICE STEWART SAID YESTERDAY: "IT IS ELEMENTARY THAT THE SUCCESSFUL CONDUCT OF INTERNATIONAL DIPLOMACY AND THE MAINTENANCE OF AN EFFECTIVE NATIONAL DEFENSE REQUIRE BOTH CONFIDENTIALITY AND SECRECY. OTHER NATIONS CAN HARDLY DEAL WITH THIS NATION IN AN ATMOSPHERE OF MUTUAL TRUST UNLESS THEY CAN BE ASSURED THAT THEIR CONFIDENCES WILL BE KEPT. . . IN THE AREA OF BASIC NATIONAL DEFENSE THE FREQUENT NEED FOR ABSOLUTE SECRECY IS, OF COURSE, SELF-EVIDENT."

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THE SUPREME COURT HAS NOW ACTED. IN ASSESSING THE SIGNIFICANCE OF THE COURT'S ACTION, IT IS IMPORTANT TO UNDERSTAND EXACTLY WHAT THE SUPREME COURT DID: THE COURT HELD ONLY THAT ANYONE REQUESTING A PRIOR RESTRAINT OF EXPRESSION "CARRIES A HEAVY BURDEN OF SHOWING JUSTIFICATION FOR THE ENFORCEMENT OF SUCH A RESTRAINT," AND THAT THE GOVERNMENT "HAD NOT RPT NOT MET THAT BURDEN" IN THE CASE BEFORE IT. THE COURT DID NOT SAY THAT PUBLICATION OF THE DOCUMENTS WOULD BE FREE OF RISK TO THE NATIONAL INTEREST. INDEED, TWO OF THE JUSTICES WHO VOTED AGAINST THE GOVERNMENT STATED EXPRESSLY THAT REVELATION OF CERTAIN OF THE DOCUMENTS "WOULD DO SUBSTANTIAL DAMAGE TO PUBLIC INTERESTS."

THUS WE HOPE THE PRESS WILL RECOGNIZE AN OBLIGATION TO REFRAIN FROM THE PUBLICATION OF INFORMATION WHICH WOULD HARM THE SECURITY OF THE UNITED STATES. THE GOVERNMENT REMAINS READY TO LEND ITS ASSISTANCE IN IDENTIFYING ANY DOCUMENTS WHICH IF DISCLOSED WOULD RESULT IN SUCH HARM.

FOR ITS PART, OF COURSE, THE GOVERNMENT HAS RECOGNIZED THE NEED TO REVIEW PAST CLASSIFICATION PRACTICES, TO ESTABLISH PROCEDURES TO REDUCE SECRECY IN GOVERNMENT, AND MORE PROMPTLY TO RELEASE INFORMATION TO THE PUBLIC AND THE CONGRESS. THESE WERE IN THE PURPOSES OF THE STUDY THAT PRESIDENT NIXON ORDERED LAST JANUARY 15.

FINALLY LET ME SAY THAT IT WILL BE THE PURPOSE OF THIS ADMINISTRATION TO FIND WAYS TO PROTECT THE ORDERLY PROCESSES OF GOVERNMENT, SAFEGUARD OUR NATIONAL INTERESTS, AND DEAL ON A BASIS OF CONFIDENTIALITY WITH FOREIGN GOVERNMENTS CONSISTENT WITH THE RIGHTS AND OBLIGATIONS OF A FREE PRESS.

STATEMENT BY THE ATTORNEY-GENERAL JOHN N. MITCHELL

THE DECISION OF THE SUPREME COURT SPEAKS FOR ITSELF.

SINCE THE BEGINNING OF THE INVESTIGATION OF THE UNAUTHORIZED DISCLOSURES OF THE PENTAGON CLASSIFIED DOCUMENTS, ALL AVENUES OF CRIMINAL PROSECUTION HAVE REMAINED OPEN. A REVIEW OF THE COURT'S OPINION INDICATES THAT THERE IS NOTHING IN THEM TO AFFECT THIS SITUATION. THE DEPARTMENT OF JUSTICE IS CONTINUING ITS INVESTIGATION AND WILL PROSECUTE ALL THOSE WHO HAVE VIOLATED FEDERAL CRIMINAL LAWS IN CONNECTION WITH THIS MATTER.

AS FURTHER DEVELOPMENTS OCCUR RELATIVE TO JUSTICE DEPARTMENT ACTION, THEY WILL BE ANNOUNCED AT THE PROPER TIME.

ROGERS

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