

The Department of State refers to its note to the Embassy of Mexico dated September 12, 1997, in which the Department advised the Embassy that it was assessing the information it had received concerning the case of Mr. Mario Benjamin Murphy, a Mexican national sentenced to death in the Commonwealth of Virginia who was scheduled for execution on September 17, 1997.

The Department carefully reviewed that information, including the September 10, 1997, report from the Commonwealth of Virginia provided to the Embassy under cover of the above-mentioned note. As indicated therein, the Office of the Governor of the Commonwealth of Virginia was unable to find any evidence that Mr. Murphy was informed before his conviction of his right to consular notification under Article 36(1)(b) of the Vienna Convention. The Department of State extends, on behalf of the United States, its most profound apology for the apparent failure of the competent authorities to inform Mr. Murphy that he could have a Mexican consular officer notified of his detention.

The report of the Governor's office in this case assured the Department that, as he considered the clemency petitions pending before him, the Governor would take into account the U.S. obligation to provide consular notification and the fact that Mr. Murphy apparently was not informed that he could have a consular official notified of his detention. The Department believed this consideration was appropriate in the circumstances, and the Legal Adviser so informed the Governor's office on September 16. A copy of the Legal Adviser's

letter to the Governor is enclosed for the Embassy's information. The Legal Adviser also conferred with legal counsel to the Governor on September 17, and emphasized the importance of the consular notification obligation. Later that day, Governor George F. Allen released a public statement announcing his decision not to grant the petitions for clemency. A copy of this statement is also enclosed for the Embassy's information. Mario Benjamin Murphy was executed by lethal injection at 9:09 PM Eastern Daylight Time on September 17, 1997.

The Department remains committed to continuing the bilateral consultations between the United States and Mexico with a view toward improving our mutual compliance with the Article 36 obligation to provide prompt consular notification and access.

Enclosures: As stated

Department of State,

Washington, September 23, 1997

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