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Collection Name CULVAHOUSE, ARTHUR B.:FILES

Withdrawer

DLB 8/20/2014

File Folder IRAN/ARMS TRANSACTION: LEGAL MEMORANDA:
NICARAGUAN CONTRA AID [BOLAND AMENDMENT]
(4 OF 8)

FOIA
S643

Box Number CFOA 1131

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157

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
I65149	PAPER	SUMMARY OF BOLAND AMENDMENT PROVISIONS	12	ND	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

THE WHITE HOUSE

WASHINGTON

April 21, 1987

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ENCLOSURE(S)

~~UNCLASSIFIED~~
~~with SECRET ATTACHMENT~~

MEMORANDUM FOR WILLIAM B. LYTTON III

FROM: JOY YANAGIDA

SUBJECT: Boland Amendment Provisions

Attached please find a summary of Boland Amendment provisions from 1982 to 1987, including references from analyses by the CIA and IOB.

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in

The Boland Amendment prohibited DOD, CIA, and other intelligence agencies from waging a ~~current~~ war on Nicaragua. It did not prohibit private support to the resistance; it did not prohibit political support; and it did not -- and could -- affect the President's authority to engage in diplomatic negotiations or solicitations ~~from~~ to support to the Nicaraguan resistance.

[even Foreign]

not

- There were five different Boland Amendments in four years (December 1982 through October 1986).
- Under these Boland Amendments, Congress authorized more than \$60 million over those four years, sometimes for military and related aid, sometimes for humanitarian aid, sometimes for both.
- In October 1986, Congress authorized \$100 million for humanitarian and military aid to the Contras.
- From October 3, 1984, to December 19, 1985, the Boland Amendment prohibited DoD, CIA, "or any other agency or entity of the U.S. involved in intelligence activities" from spending money to support, directly or indirectly, the Contras. At best, it is unclear whether the NSC is an "intelligence agency" subject to the prohibition on spending funds. The lawyers cannot agree, and Congress did not make it clear.
- No Boland Amendment or any other law prohibits the President from discussing foreign policy issues, or contributions to the Nicaraguan resistance, with leaders of foreign governments. That law restricts defense and intelligence agency spending, not conduct.

Senator Rudman is quoted in the New York Times (5/13/87):

I can find no lawyer of any constitutional law background who would claim that the President of the United States could be precluded by any amendment of the Congress from dealing with foreign countries in any way he wishes.

- No Boland Amendment or any other law prohibits private citizens from contributing money to the Contras.
 - Such a proposal was introduced in the House, but never got out of Committee.
 - Congressman Boland said on the House floor on June 12, 1985:

[The Contras] continue their military operations in Nicaragua and, they have increased their numbers.

They have done this with funds provided by private groups, mostly from the United States.

Those funds have helped purchase weapons, ammunition, food, clothing, medicine--everything the Contras have needed to maintain themselves as an army in the field.

.....
As we all know, the private groups will continue to provide money for arms and ammunition.

BOLAND AMENDMENT PROVISIONS

Dec. 21, 1982-
Dec. 7, 1983
(Ban ag. overthrow)

§ 793 of the FY 1983
DODAA (P.O. 97-377, 96
Stat. 1865; Dec. 21,
1982):

None of the funds provided by this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

Dec. 8, 1983-
Oct. 3, 1984
(\$24 million)

§ 775 of the FY 1984
DODAA (P.L. 98-212; 94
Stat. 1952, Dec. 8,
1983):

During fiscal year 1984, not more than \$24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

§ 108 of the FY 1984
IAA (P.L. 98-215, 97
Stat. 1475, Dec. 9,
1983):

During fiscal year 1984, not more than \$24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involve in intelligence activities may be obligated or expended for the purpose of which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.

Oct. 3, 1984- (by CR)
Dec. 19, 1985
("Absolute" ban)

§ 8066(a) of the FY
1985 DODAA (P.L.
98-473; 98 Stat. 1935,
Oct. 12, 1984):

During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

§ 801 of the FY 1985
IAA (P.L. 98-618, 98
Stat. 3304, Nov. 8,
1984):

No funds authorized to be appropriated by this Act or by the Intelligence Authorization Act for fiscal year 1984 (Public Law 98-215) may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except to the extent provided under the terms and conditions specified by House Joint Resolution 648, making continuing appropriations for fiscal year 1985, and for other purposes, as enacted.

§ 8069 of the FY 1985 DODAA: None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Aug. 15, 1985-
Mar. 31, 1986(overlap)
(Humanitarian ass't)

§ 722(g)(1) of the
Int'l Sec. & Dev.
Coop. Act; (P.L.
99-83, 99 Stat. 254,
Aug. 8, 1985):

Effective upon the date of enactment of this Act, there are authorized to be appropriated \$27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

§ 722(d) of the ISDCA (the "Pell Amendment"):

The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other acts of rebellion against the Government of Nicaragua.

§ 102(b) of the FY 1985 DOD Supp. AA:

Nothing in this Act, section 8066(a) [of the DODAA] shall be construed to prohibit the United States Government from exchanging information with the Nicaraguan democratic resistance, or the obligation and expenditure, but only for purposes for which they are expressly made available, of the funds appropriated by this chapter. . . .

§ 102(a) of the FY 1985 DOD Supp. AA (99 Stat. 325):

The prohibitions contained in section 8066(a) [of the DODAA] shall, without limitation as to fiscal year, apply with respect to funds appropriated under this chapter. . . .

Dec. 19, 1985-
Oct. 16, 1986
("Communications")

§§ 102 & 105 of the FY
1986 IAA (P.L. 99-169,
Dec. 4, 1985) (incor-
porated by reference
into § 8050 of the
DODAA) (P.L. 99-190;
Dec. 19, 1985) author-
ized expenditures,
ultimately totalling
\$13 million, to be
spent toward purposes
specified in a class-
ified annex. Generally,
it permitted:

(a) "communications equipment" and training for the use of such equipment; and

(b) intelligence and counter-intelligence "advice and information" to assist contra military and paramilitary operations.

Oct. 18, 1986-
Sept. 30, 1987
(\$100 million)

§ 206 of Title II of the
FY 1987 Military Construc-
tion AA (P.L. 99-500, 100
Stat. 1783-299 - 1783-300,
Oct. 18, 1986):

(a) (1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provision of this title.

(2) There are hereby transferred to the President for the purposes of this section \$100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

* Date of Appropriations not Authorizations Act.

BOLAND AMENDMENT PROVISIONS

Dec. 21, 1982-
Dec. 7, 1983
(Ban ag. overthrow)

§ 793 of the FY 1983 DODAA (P.O. 97-377, 96 Stat. 1865; Dec. 21, 1982):

None of the funds provided by this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

Dec. 8, 1983-
Oct. 3, 1984
(\$24 million)

§ 775 of the FY 1984 DODAA (P.L. 98-212; 94 Stat. 1952, Dec. 8, 1983):

During fiscal year 1984, not more than \$24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

§ 108 of the FY 1984 IAA (P.L. 98-215, 97 Stat. 1475, Dec. 9, 1983):

During fiscal year 1984, not more than \$24,000,000 of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involve in intelligence activities may be obligated or expended for the purpose of which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement or individual.

Oct. 3, 1984- (by CR)
Dec. 19, 1985
("Absolute" ban)

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During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual.

§ 801 of the FY 1985 IAA (P.L. 98-618, 98 Stat. 3304, Nov. 8, 1984):

No funds authorized to be appropriated by this Act or by the Intelligence Authorization Act for fiscal year 1984 (Public Law 98-215) may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except to the extent provided under the terms and conditions specified by House Joint Resolution 648, making continuing appropriations for fiscal year 1985, and for other purposes, as enacted.

§ 8069 of the FY 1985 DODAA: None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Aug. 15, 1985-
Mar. 31, 1986(overlap)
(Humanitarian ass't)

§ 722(g)(1) of the Int'l Sec. & Dev. Coop. Act; (P.L. 99-83, 99 Stat. 254, Aug. 8, 1985):

Effective upon the date of enactment of this Act, there are authorized to be appropriated \$27,000,000 for humanitarian assistance to the Nicaraguan democratic resistance. Such assistance shall be provided to such department or agency of the United States as the President shall designate, except the Central Intelligence Agency or the Department of Defense.

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The United States shall not enter into any arrangement conditioning, expressly or impliedly, the provision of assistance under this Act or the purchase of defense articles and services under the Arms Export Control Act upon the provision of assistance by a recipient to persons or groups engaging in an insurgency or other acts of rebellion against the Government of Nicaragua.

§ 102(b) of the FY 1985 DOD Supp. AA:

Nothing in this Act, section 8066(a) [of the DODAA] shall be construed to prohibit the United States Government from exchanging information with the Nicaraguan democratic resistance, or the obligation and expenditure, but only for purposes for which they are expressly made available, of the funds appropriated by this chapter. . . .

§ 102(a) of the FY 1985 DOD Supp. AA (99 Stat. 325):

The prohibitions contained in section 8066(a) [of the DODAA] shall, without limitation as to fiscal year, apply with respect to funds appropriated under this chapter. . . .

Dec. 19, 1985-
Oct. 16, 1986
("Communications")

§§ 102 & 105 of the FY 1986 IAA (P.L. 99-169, Dec. 4, 1985) (incorporated by reference into § 8050 of the DODAA) (P.L. 99-190; Dec. 19, 1985) authorized expenditures, ultimately totalling \$13 million, to be spent toward purposes specified in a classified annex. Generally, it permitted:

(a) "communications equipment" and training for the use of such equipment; and

(b) intelligence and counter-intelligence "advice and information" to assist contra military and paramilitary operations.

Oct. 18, 1986-
Sept. 30, 1987
(\$100 million)

§ 206 of Title II of the FY 1987 Military Construction AA (P.L. 99-500, 100 Stat. 1783-299 - 1783-300, Oct. 18, 1986):

(a) (1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provision of this title.

(2) There are hereby transferred to the President for the purposes of this section \$100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

THE WHITE HOUSE

WASHINGTON

May 5, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE

FROM: Joy Yanagida

SUBJECT: Boland Amendment Summaries

Bill Lytton asked that these be transmitted to you directly. Attached please find:

- (1) a one-page summary of the Boland Amendment; and
- (2) a two-page summary of the Boland Amendment, a version of which you received yesterday.

cc: William B. Lytton III

BOLAND AMENDMENTS

December 1982 - December 1983

CIA and DOD were barred from seeking to overthrow the Nicaraguan government or making expenditures to provoke a war between Nicaragua and Honduras.

December 1983 - October 1984

No more than \$24 million in assistance could be spent by CIA, DOD or "any other entity or agency involved in intelligence activities" to "directly or indirectly" support the Contras.

October 1984 - August 1985

The Boland Amendment prohibited the use of funds available to the CIA, DOD "or any other agency or entity involved in intelligence activities" from "directly or indirectly" supporting the Contras. (The prohibition continued until December 1985.)

August 1985 - December 1985

\$27 million was appropriated for humanitarian assistance, to expire on March 31, 1986, but the Boland prohibition of October, 1984 still barred expenditures by agencies involved in intelligence activities from supporting the Contras. These funds could not be administered by CIA or DOD.

December 1985 - March 1986

The above \$27 million appropriation for humanitarian assistance expired on March 31, 1985.

In December classified amounts were permitted to be spent for communications, information and advice. The Congress specifically recognized the right of the Executive Branch, through the State Department to solicit humanitarian assistance from third countries.

March 1986 - October 1986

After expiration of the humanitarian assistance appropriation, authorization continued for communications, information and advice.

The express prohibition against direct and indirect aid were not reimplemented, but CIA, DOD and "any other agency or entity involved in intelligence activity" could only spend funds for these communications, information and advice.

October 1986 - September 1987

\$100 million was appropriated -- \$70 million in military and \$30 million in humanitarian assistance.

THE WHITE HOUSE

WASHINGTON

BOLAND AMENDMENTS

SUMMARY:

This memorandum summarizes the statutes on Contra support commonly called the Boland Amendments.

1. December 1982 - December 1983 CIA and DOD were barred from seeking to overthrow the Nicaraguan government or seeking to provoke a war between Nicaragua and Honduras.
2. December 1983 - October 1984 \$24 million in assistance was provided for purposes that included military aid.
3. October 1984 - December 1985 The Boland Amendment prohibited the use of funds available to the CIA, DOD "or any other agency or entity involved in intelligence activities" from directly or indirectly supporting the Contras.

August 1985 - March 1986 Up to \$27 million could be spent on humanitarian assistance.

4. December 1985 - October 1986 Classified amounts were permitted to be spent for communications, information and advice. The express prohibitions against direct and indirect aid were not reimplemented, but CIA, DOD and "any other agency or entity involved in intelligence activity" could only spend funds for these authorized purposes.
5. October 1986 - September 1987 \$100 million was appropriated -- \$70 million in military and \$30 million in humanitarian assistance.

DISCUSSION:

1. December 21, 1982 - December 7, 1983: narrow prohibition

In December 1981, the President signed a National Intelligence Finding establishing U.S. support for the Nicaraguan resistance forces, the so-called Contras.

On December 21, 1982, Congress, with the support of the Administration, adopted the first Boland Amendment. The 1982 provision established narrow limitations on the expenditure of funds. It prohibited CIA and DOD funds from being used

"for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

2. December 8, 1983 - September 30, 1984: \$24 million in assistance

On December 28, Congress authorized up to \$24 million to be spent to support the Contras. The \$24 million could be used for military assistance.

3. October 3, 1984 - December 19, 1985: Prohibition on Military Assistance

(a) In October 1984, the Congress barred the CIA, DOD and "any agency or entity involved in intelligence activity" from "directly or indirectly" supporting the Contras.

(b) In August 1985, Congress authorized \$27 million in humanitarian assistance. The authorization expired on March 31, 1987. It barred CIA and DOD from administering the funds; and barred any effort to condition foreign aid to a third country on assistance by that country to the Contras.

4. December 19, 1985 - October 16, 1986: "Communication" and "advice"

On December 4, 1985, Congress authorized expenditures, ultimately totalling \$13 million, to be spent toward purposes specified in a classified annex, which provided for:

(a) "communications equipment" and training for the use of such equipment; and

(b) intelligence and counter-intelligence "advice and information" to assist Contra military and paramilitary operations.

The express prohibitions against direct and indirect aid were not reimplemented, but CIA, DOD and "any other agency or entity involved in intelligence activity" could only spend funds for these authorized purposes.

Even within the Congress, there was considerable debate over what was permitted under the provision. The legislative history indicated that some training would be permitted, but not training that would "amount to participation in the planning or execution of military or paramilitary operations in Nicaragua by the Nicaraguan democratic resistance, or to participation in logistics activities integral to such operations."

5. October 15, 1986 - September 30, 1987: \$100 million and military assistance

On October 18, 1986, Congress authorized \$100 million in assistance to the Contras: \$30 million in humanitarian assistance; \$70 million for other purposes.