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WITHDRAWAL SHEET

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Collection Name

CULVAHOUSE, ARTHUR B.:FILES

File Folder

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

Box Number

CFOA 1131

Withdrawer

DLB 8/20/2014

FOIA

S643

SYSTEMATIC

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

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ENCLOSURE(S)

April 21, 1987

~~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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the U.S.

case +

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 Depart-
ment 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 overthrow-
ing 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 intelli-
gence 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
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effect of supporting,
directly or indirectly,
military or paramili-
tary operations in
Nicaragua by any
nation, group, organi-
zation, 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 avail-
able to the Central
Intelligence Agency,
the Department of
Defense, or any other
agency or entity of
the United States
involved in intelli-
gence 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 Authoriza-
tion Act for fiscal
year 1984 (Public Law
98-215) may be obliga-
ted 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 Resolu-
tion 648, making
continuing appropria-
tions 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 assis-
tance 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 Depart-
ment 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 expendi-
ture, 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;
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ized expenditures,
ultimately totalling
\$13 million, to be
spent toward purposes
specified in a classi-
fied annex. Generally,
it permitted:

(a) "communications
equipment" and train-
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such equipment; and

(b) intelligence and
counter-intelligence
"advice and informa-
tion" to assist contra
military and paramili-
tary 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 pur-
poses of this section
\$100,000,000 of unobli-
gated 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.

BOLAND AMENDMENT PROVISIONS

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Oct. 16, 1986
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Sept. 30, 1987
(\$100 million)

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FY 1987 Military Construc-
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poses of this section
\$100,000,000 of unobli-
gated 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.