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104th Congress
2d Session

INVESTIGATIVE REPORT

425

**FINAL REPORT OF THE
SELECT SUBCOMMITTEE TO
INVESTIGATE
THE UNITED STATES ROLE
IN IRANIAN ARMS TRANSFERS TO
CROATIA AND BOSNIA
(“THE IRANIAN GREEN LIGHT
SUBCOMMITTEE”)**

R E P O R T
PREPARED FOR THE

**COMMITTEE ON INTERNATIONAL
RELATIONS
U.S. HOUSE OF REPRESENTATIVES**
APPROVED: OCTOBER 10, 1996
WITH MINORITY VIEWS

SUBMITTED: OCTOBER 25, 1996
DECLASSIFIED PURSUANT TO LETTER DATED DECEMBER 20, 1996
FROM WILLIAM DANVERS, SPECIAL ASSISTANT
TO THE PRESIDENT AND SENIOR DIRECTOR
FOR LEGISLATIVE AFFAIRS (NSC)



Printed for the use of the Committee on International Relations of the
House of Representatives

104th Congress
2d Session

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SUBCOMMITTEE”)**

WITH MINORITY VIEWS

**HENRY J. HYDE, CHAIRMAN
LEE H. HAMILTON, RANKING DEMOCRATIC MEMBER**

**REPORT
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COMMITTEE ON
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U.S. HOUSE OF REPRESENTATIVES**



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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

December 20, 1996

Dear Mr. Murray:

(U) This letter responds to the Select Subcommittee's request, contained in letters from Chairman Hyde of October 11, 1996, and Mr. Hamilton of October 15, 1996, that the executive branch review for classification the Subcommittee's majority and minority reports. The final version of the majority report was provided on October 23. The final version of the minority report is dated October 25. Supplemental information to these reports was provided subsequent to both final reports being received. On November 6, the executive branch also received from Chairman Hyde a request to review for classification a 26-page letter to the Department of Justice signed by the Republican members of the Select Subcommittee. As these letters correctly note the reports are lengthy (approximately 600 pages) and contain a great deal of classified information.

(U) In response to these requests NSC staff distributed these materials to designated representatives of the Departments of State, Defense, including component elements, and the Central Intelligence Agency. In order to maximize knowledge, save time, and in the interest of the addressing the majority and minority reports at the same time, the executive branch treated these requests as a single request. Classification/Declassification experts from each of these entities have now completed their review by portion marking each paragraph and footnote. Additionally, we have bracketed the specific portions of the text that are classified within each marked paragraph or footnote.

(U) The executive branch reviewed the document for classified information only. The executive branch review did not address the substantive content of these documents, neither does this letter. Further, this declassification review does not constitute concurrence in the public release of any declassified information enclosed.

 Due to the length of these reports, and the voluminous nature of the classified material contained in them, including sources and methods of intelligence that directly

(U)

¹ Representative Sam Brownback (R-KS) was initially chosen to serve on the Select Subcommittee. Congressional scheduling, however, prevented his service. Full Committee Chairman Benjamin A. Gilman appointed Representative Jan Meyers (R-KS) to satisfy the Subcommittee's complement of Republican members.

(U)

Inform and provide for the safety of U.S. forces in Bosnia, the executive branch is not in a position to offer substitute reports. This would require rewriting the majority of both reports.

[REDACTED]

(U) Executive branch review of the letter to the Department of Justice referenced above, indicated that one sentence on page 18 could reveal an intelligence source or method. With the inclusion of this sentence, the letter would be classified TOP SECRET//SI//NF. With the deletion of this sentence, the letter would be unclassified. The "classified attachment" to the letter should be marked TOP SECRET//SI//NF.

(U) The text of this letter is also being sent to Mr. Van Dusen.

Sincerely,

William Danvers
 William Danvers
 Special Assistant to the President
 and Senior Director for
 Legislative Affairs

Mr. Patrick Murray
 Professional Staff Member
 Committee on International Relations
 Room 2110 RHOB
 Washington, D.C. 20515-6128
 Enclosure: n/s

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Benjamin A. Gilman
 BENJAMIN A. GILMAN
 CHAIRMAN
 COMMITTEE ON INTERNATIONAL RELATIONS
 HOUSE OF REPRESENTATIVES
 CONGRESS OF THE UNITED STATES
 Select Subcommittee on the United States Role in
 Iranian Arms Transfer to Croatia and Bosnia
 WASHINGTON, D.C. 20515

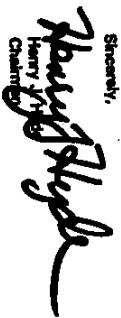
November 7, 1996

The Honorable Benjamin A. Gilman
 Chairman
 Committee on International Relations
 2170 Rayburn House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

In accordance with H.Res 416 (H), directing the Select Subcommittees to transmit a report to the Committee on International Relations not later than six months after the date of the Resolution, please find enclosed a copy of the Select Subcommittee's Report, together with Minority Views. The Report was approved by the Select Subcommittee during an executive session on October 10, 1996.

I urge the Committee to review the Report carefully for matters that the Committee may wish to pursue further in the next Congress. I also believe the Committee should continue the Subcommittee's efforts to get the Executive Branch to declassify as much as much of the Report as possible without endangering legitimately classified information. Assuming the Administration is reasonable in its approach to declassification, it would be of particular value to the American people if the Committee were able to work from the redacted classified version to prepare a revised, unclassified version for public release.

Sincerely,

 Henry Hyde
 Chairman

(Unclassified when detached from Classified Report)

SECTION ONE: BACKGROUND

CHAPTER 1

ORIGINS AND PURPOSES OF THE SELECT SUBCOMMITTEE

On April 5, 1996, the Los Angeles Times ran a front-page article by James Risen and Doyle McManus that led with the sentence:

President Clinton secretly gave a green light to covert Iranian arms shipments into Bosnia in 1994 despite a United Nations arms embargo that the United States was pledged to uphold and the Administration's own policy of isolating Tehran globally as a supporter of terrorism, according to senior Administration officials and other sources.¹

This article was the first of several extraordinary articles that spelled out in detail, *etc.*, with what turned out to be excellent sourcing, a policy decision that the Clinton Administration had carefully guarded for two years – bobbing reference to it in writing, denying it to the press, deflecting Congress, hoodwinking allies, and even trying to keep it secret from the Director of the Central Intelligence Agency (CIA) and the Secretary of Defense. The decision came to be referred to by higher ranking Administration officials as the “wink and nod,” “the blind eye,” and other terms, but the one that seemed to have stuck was given near the time of the decision’s inception by one of its intellectual authors: the “green light.”²

The articles authoritatively spelled out the advantages Iran had reaped from the green light policy; the confusion it had caused within the Executive Branch; and the other policy options that had been overlooked or rejected by the Administration as being too difficult.

The congressional response was one of incredulity. Members were shocked to learn that the Administration had chosen to give Iran an unprecedented foothold in an extremely unstable and vulnerable part of Europe. It was equally disturbing that for two years the Administration had purposely hidden from Congress, US allies, and the American people its highly questionable, major US policy shift.

¹ James Risen and Doyle McManus, U.S. OK'd Iranian Arms for Bosnia, *Officer* Say, Los Angeles Times, Apr. 5, 1996, at 1.

² First used in writing by US Ambassador to Croatia, Peter Galbraith on May 12, 1994 in a Memorandum for the File (hereinafter “Galbraith Memorandum”).

There had been occasional press reports before that might have exposed the policy, earlier, however, Congress continued to believe the Administration's denials of the Iranian green light policy. Congress found it unlikely that the Administration would adopt such a policy that was inconsistent and incompatible with the Administration's well-known and vigorously championed policies regarding the former Yugoslavia and Iran. Also, given the long-settled US policy of isolating Iran both economically and politically, Congress refused to believe that the Administration could have such bad judgment as to invite Iran, the world's largest exporter of terrorism, into Europe, much less into an area so ripe for fundamentalist exploitation as the Balkans.

The thought was that the Administration would surely inform Congress if it intended a major policy shift towards Iran and Bosnia. In retrospect, Congress cannot be blamed for presuming to trust the Administration's truthfulness, consistency, and strategic acumen.

In any case, when the story of the green light policy broke in April 1996, there were calls from both houses of Congress for an investigation; since then, several committees have looked into the issue, emphasizing aspects relevant to their specific areas of oversight. For example, both intelligence oversight committees -- the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence -- have examined the green light policy with an emphasis on its intelligence-related issues. Also, on May 6, 1996, the House approved Resolution 416, establishing a select subcommittee of the House International Relations Committee and gave it a broad charter to investigate all aspects of the policy and implementation. This subcommittee, the Select Subcommittee to Investigate the United States Role in Iranian Arms Transfers to Croatia and Bosnia (also known as the "Iranian Green Light" Subcommittee) conducted an extensive investigation of the green light policy over the ensuing months and presents its findings and recommendations in this report.

The Uncovering of the Iranian Green Light Policy by the Press

As early as May 1994, allegations began to surface that Iran, with some sort of US complicity, was covertly transferring weapons to Bosnia, despite a United Nations (UN) arms embargo on the former Yugoslavia. Each time the Administration issued denials of US complicity and managed to keep the story in the bottle.³

³ The Administration's policy of denial and deception on this issue is outlined in detail in Chapter 3.

Unfortunately for those seeking to maintain the cover-up, James Risen and Doyle McMannus of the *Los Angeles Times* became aware of these hidden policy missteps. From April through July 1996, they wrote a series of thirteen investigative articles exposing the missteps with incredible detail to large numbers of well-placed Administration officials who were willing to speak to them on a "not for attribution" basis.⁴

Because the Risen/McMannus articles played such an important role in uncovering the green light policy and its consequences, their findings are summarized below.

Background

The Clinton White House was not the first Administration to face the question of Iranian arms shipments into Bosnia through Croatia, but its response was the opposite of

⁴ The following is a chronological listing of the *Los Angeles Times* (hereinafter "LAT") articles:

- Risen and McMannus, *US OK'd Iranian Arms for Bosnia*, LAT, Apr. 5, 1996, at 1.
- Risen and McMannus, *Administration Denies Its OK of Bosnian Arms*, LAT, Apr. 6, 1996, at 1.
- Risen, *Gingrich Criticizes Clinton Over Bosnia*, LAT, Apr. 11, 1996, at 12.
- Risen and McMannus, *US Envoy May Have Aided Arms Convoys to Bosnia*, LAT, Apr. 17, 1996, at 1.
- Risen and McMannus, *US Didn't Anticipate Wider Iran Bosnia Role*, LAT, Apr. 23, 1996, at 1.
- Risen, *Administration Denies Arms Policy*, LAT, Apr. 24, 1996, at 17.
- Risen and McMannus, *Study of Other Bosnian Arms Sources Told*, LAT, Apr. 26, 1996, at 22.
- Risen and McMannus, *Democrats, John Critics of Bosnia Arms Secrecy*, LAT, May 1996, at 1.
- Risen and McMannus, *Territorial Risk to Americans in Croatia Is Linked to Iran*, May 21, 1996, at 1.
- Risen, *Ex-Envoy Says Iran-Bosnia Link Was 'Youth Risk'*, LAT, May 22, 1996, at 1.
- Risen, *Clinton Denies Arms-to-Bosnia Policy*, LAT, May 24, 1996, at 28.
- Risen, *US Could Have Stopped Arms to Bosnia*, *Envoy Says*, LAT, May 31, 1996, at 1.
- Risen and McMannus, *US Had Options to Let Bosnia Get Arms*, *Avrodi Iran*, LAT, July 14, 1996, at 1.

the prior administration's. In September 1992, the Bush Administration discovered that Iran was attempting to smuggle arms on board a 747 airplane to Bosnia through Croatia in violation of the arms embargo and, according to former Secretary of State Lawrence Eagleburger, "raised hell." The Administration acted decisively and had the 747 and the weapons seized. According to Secretary Eagleburger, "We made it very clear that we were adamantly opposed to this going on. There was no question in the Bush Administration of where we were on this subject."

Throughout the presidential campaign of 1992, Governor Clinton forcefully and repeatedly criticized President Bush for his consistent enforcement of the arms embargo and called for the United States to arm the Bosnians. The new Administration, upon taking office in 1993, found itself hamstrung. Unfortunately for President Clinton, the same policy constraints that faced President Bush -- unwillingness on the part of the American public to commit troops and allied opposition to lifting the embargo -- equally applied to him. By the spring of 1994, Clinton's frustrations were at a peak.

While Clinton felt compelled by circumstances to follow President Bush's much-criticized path, Iran was also chafing under the policies of containment consistently followed by the Bush Administration and, until the green light policy, under President Clinton. Iran's radical Islamic government was eager to increase its influence in the Balkans and saw the West's refusal to provide weapons to the Bosnian government as an opportunity. Though Iran had struggled a small, insignificant amount of weapons to the Bosnian government prior to the outbreak of hostilities between Bosnian Croats and Muslims, it was their subsequent use and creation of the Bosnian Federation that set the stage for Clinton's green light policy decisions.

The Proposal

On April 27, 1994, Croatian Foreign Minister Mate Granic entered the US embassy in Zagreb with a potentially explosive request: Would Washington accede to Croatia's plans to accept Iran's offer to open up a weapons pipeline from Iran into Bosnia? The Croats were split over the question, having yielded to the Bush Administration's demands in 1992 that weapons shipments be stopped, and were seeking instructions. Granic was giving the US advance notice that Croatian President Franjo Tudjman planned formally to ask US Ambassador to Croatia Peter Galbraith how the United States would

* LAT, Apr. 5, 1996.

* LAT, July 14, 1996.

respond to new arms shipments from Iran. Granic himself was against the idea, a minority view in the Croatian government, but was following his orders to seek Washington's reaction.

Ambassador Galbraith had been impatient with the Clinton Administration for not doing more to aid the Bosnian cause, and was strongly in favor of the US allowing the new arms shipments. Risen noted that Galbraith had earned his reputation as an activist as a staff member on the Senate Foreign Relations Committee and had sometimes ranked the career officials within the US government in his efforts to expand his role as the first US Ambassador to Croatia. It is clear that Galbraith supported the pro-weapon pipeline faction within the Croatian government, the most prominent member being Godko Susak, Croatia's Defense Minister and Tudjman's right-hand man.

Though the Administration thought the green light decision "obvious" and insignificant at the time, a senior US diplomat would later acknowledge that the pipeline probably would not have been established if the United States had opposed it forcefully. Peter Galbraith would later testify, "I can say that had we in a very, very forceful way made it clear that we would not tolerate the flow of arms to the Bosnians, they probably would not have done it. . . . When we did not object, they proceeded to go ahead and do it."

The Decision

While most diplomatic exchanges require days, if not weeks or months, to coordinate and yet, this request for instructions reached President Clinton in a matter of hours. The first recipient of the cable was Deputy Assistant Secretary of State Alexander Vershbow, who referred the question to Deputy Secretary of State Stroba Talbot and National Security Advisor Anthony Lake, who were traveling with Clinton to Nixon's funeral in Yorba Linda, California.

Talbot and Lake agreed on the solution: Do nothing. Galbraith was to give the coded response of "no instructions," which would tell the Croats that the US would not act to stop the shipments. Lake asked for 20 minutes of President Clinton's time and was ushered into Clinton's office aboard Air Force One. James Risen described the meeting

¹ Id.

* LAT, May 31, 1996.

* Id.

as follows: "Lake ran [the President] through the pros and cons and said, 'This is our recommendation And he said 'yes' a senior official recounted. There was little discussion and no serious debate. It seemed like an obvious choice," the official said."¹⁰

No other officials even at the highest levels of the US government were consulted before the green light was given to the Iranian arms transfers. In addition, the Central Intelligence Agency, whose purpose is to protect national security by evaluating information on political and military developments abroad, was never officially notified of the policy.¹¹

As a result of this closed and truncated decision-making process, US officials would later admit they gave little thought back in 1994 to the chance that Iran's political and military presence would grow in Bosnia as it did. A senior Administration official would concede they did not focus on the problem until the prospect of US troops going in was raised in 1995.¹²

The Alternatives

For the first two weeks following the breaking of the story, the Administration spin was that there were no alternatives to allowing the Iranian arms transfers, and that the decision was "obvious." Further research showed, however, that far from being "forced" into approving the arms transfers, the White House had actively rejected multiple calls for having nations friendly to the United States supply weapons to the Bosnians. The Administration rejected these equally effective alternative means of arming the Bosnians even though they would have negated the chance of increasing Iranian influence in Bosnia.¹³

The first such suggestion was made by Richard Holbrooke several months after the green light decision. In the fall of 1994, Holbrooke sought a legal opinion from State Department attorneys asking what diplomatic approaches to friendly nations could be made without triggering US covert action laws requiring Congress to be notified. Holbrooke thought that the unequal battlefield conditions faced by the Muslims in Bosnia

¹⁰ LAT, July 14, 1996.

¹¹ Id.

¹² LAT, Apr. 23, 1996.

¹³ LAT, July 14, 1996.

could be eased if friendly nations would covertly supply the weapons with American encouragement.

When news of this proposal reached the upper levels of government, Holbrooke was rebuffed. According to Risen, Anthony Lake thought the idea was "too risky," and Secretary of State Warren Christopher was also opposed.¹⁴ Indeed, Risen would write that, "senior administration officials opposed Holbrooke's plan because they feared that covert arming by friendly nations would make it too obvious the United States was encouraging the violation of a UN arms embargo against Bosnia."¹⁵

In a July 1996 article, Risen and McKinnus would document other alternatives to the failed green light policy that were rejected by the Clinton Administration. They would note that at least three times between 1983 and 1995, discussions were held about arming friendly countries such as Saudi Arabia, Turkey and Pakistan to move weapons and support to the Bosnians. The model for such aid existed before in the 1980s when Saudi Arabia served as the conduit between the US and the anti-Soviet Afghan insurgency.

Galbraith himself had suggested using friendly intermediaries in late 1993. He reportedly asked the [redacted] in his embassy how much it would cost to begin a covert operation to aid the Bosnians, wondering if \$250 million would be enough.¹⁶ The [redacted] was surprised by the request, advised Galbraith that such an action would be illegal without formal authorization, and warned [redacted] in Washington that Galbraith was thinking along these lines.

The Consequences

Among the negative consequences of the green light policy and how it was implemented, as identified by Risen and McKinnus, are the contention it caused within the US government, the resultant increase in Iranian influence in the former Yugoslavia, and concerns that, beneath the Administration's obfuscation of the policy, there may have been an illegal covert action.

A. Policy Contusion

¹⁴ Id.

¹⁵ LAT, Apr. 26, 1996.

¹⁶ LAT, July 14, 1996.

There was considerable confusion among Administration officials throughout the whole process. Very little time elapsed and even less thought took place from the time the original query was made to Galbraith until Lake met with the President on Air Force One. Even after receiving the "no instructions" instruction, Galbraith himself was still unclear what action to take. According to Risen, Galbraith called Jerome Walker, the National Security Council's chief European expert, who told him Lake had indicated he was to stick to "no instructions," but she added, "Tony was smiling when he said it."¹⁷

Not only were other appropriate agencies of the US government not consulted, they were not advised of the decision once it was made. Neither the CIA nor the Pentagon were informed of the policy change. Accordingly, the [redacted] in Zagreb continued to be under the impression that the official policy of the United States was to support the arms embargo, the same position which Assistant Secretary of State Talbot would also lead CIA Director James Woolsey to believe was still valid. The CIA continued to collect information on embargo busting and became increasingly mystified at the US government's unwillingness to act on that intelligence. The CIA would never be informed, and, as the evidence grew that Director Woolsey had been deliberately kept in the dark, he resigned in December 1994.

B. Increased Iranian Influence

The most troubling consequence of the green light policy was the resultant exponential expansion of Iranian influence in Bosnia. Risen's sources helped him paint the following assessment of Iranian influence before and after the green light:

Western intelligence agencies detected several hundred militant Muslim guerrillas from Iran, Saudi Arabia, and other countries in Bosnia as early as 1992, officials said, including several "Afghans," veterans of the CIA-funded war against the Soviet occupation of Afghanistan. But these were largely ragtag volunteers, with no readily apparent command and control from Iran or anyone else."¹⁸

In 1994, however, a different kind of Iranian was showing up in Bosnia, officials said:

... military and civilian advisors who appeared to have been sent by the

¹⁷ Id.

¹⁸ LAT, Apr. 23, 1996.

Tehran government on well-defined missiles. Some were military trainers who taught the Bosnians how to use the wire-guided antitank missiles Iran was shipping, one source said. Others helped with logistics and with weapons factories, according to the Bosnian government."¹⁹

Ambassador Galbraith himself noted that the difference was like night and day. "Certainly what was being talked about in April 1994 was something very substantially greater" than what had been shipped by Iran previously. Risen would elaborate:

From May 1994 to January 1996, the Iranians shipped more than 5,000 tons of arms to Bosnia through the Croatian pipeline. They provided the largest portion by far of Bosnia's military hardware -- two thirds by official US estimates. The Iranians delivered mostly small arms and equipment, including rifles, ammunition, and uniforms but also antitank weapons and shoulder launched surface-to-air missiles -- weapons that could threaten aircraft, including US aircraft.

Other countries did supply weapons to Bosnia without US encouragement ... But Iran was the largest supplier by far. By early 1995 the Iranian flights were landing as often as three times a week. The arms pipeline was managed largely by the Revolutionary Guards, Iran's militant Islamic shock corps, operating out of the Iranian embassy in Zagreb. Other Revolutionary Guard officers moved to Bosnia to serve as military advisors and trainers. The Bosnian Government's intelligence service and internal security forces soon had Iranian advisors too. To both secular Bosnians and US intelligence analysts, this was a worrisome trend: creeping Iranian influence in what once had been a multiracial, secular state."²⁰

The former Secretary of State Lawrence Eagleburger, who had himself worked in the Balkans for several years as a US diplomat, declared the increase in radical Islamic support in Bosnia as a major blow to the national security of the United States. He referred to it as "the height of insanity. We are inviting Bosnian-Islamic connections with a terrorist

¹⁹ Id.

²⁰ LAT, May 31, 1996.

²¹ LAT, July 14, 1996.

state that wishes us as much damage as they [sic] can possibly inflict upon us.²²

Of even more concern to the United States and the families of American servicemen deployed in Bosnia is the terrorist threat that materialized in Bosnia under the green light policy. Risen gave two examples in his articles of the increase in the terrorist threat, but alluded to having more information than he reported.

In February 1995, NATO troops raided a "terrorist training school" at which they arrested eight Bosnian and three Iranian "diplomats," who quickly invoked diplomatic immunity and flew back to Iran. Items seized in the raid included bomb devices within shampoo bottles and children's toys and a training video showing how to ambush a car on an open highway and to kill its occupants.²³

In an even more ominous sign, American embassy officials in Zagreb and Croatia became aware in 1995 of suspected Hizbullah (Party of God) members stalking embassy personnel and their families. Suspected Iranian terrorists were seen with video cameras recording Americans as they came and went. Officials feared that an attack was imminent and one official confirmed the terrorist threat went right up the scale to levels you would see in preparation for an attack.²⁴

C. Possible Illegal Covert Action

The final consequence of the Administration's giving the green light to the Iranian arms pipeline was the chance that actions taken by US government officials crossed the legal line from what the Administration terms as passive, i.e., "no institutions," to a concrete act which might reasonably be construed by foreign officials as an invitation to conduct covert action. Under US law, covert action is illegal unless it has been authorized by the President and reported to Congress.

According to Risen's sources, there were two instances when Administration officials came objectively close to the legal line. The first case occurred in May 1994 when Special Envoy to the former Yugoslavia Charles Rademan intervened with senior Croatian government officials to expedite the movement into Bosnia of a blocked convoy that is

²² LAT, Apr. 5, 1996.

²³ LAT, Apr. 23, 1996.

²⁴ LAT, May 21, 1996.

believed to have carried arms to the Muslim government troops. Rademan claims to have never asked whether arms were being carried, but US officials now acknowledge that questions could be raised whether the Administration had gone beyond passive support for the Bosnian cause and taken on a more active role.²⁵

The second case occurred in September of 1995 when a shipment of Iranian missiles bound for Bosnia was detained in Croatia because the Croatian government was nervous that the missiles were tipped with chemical warheads.²⁶ Experts from the US Army rapidly moved to inspect the missiles, determined that they were not carrying chemical or biological warheads, and then permitted them to be delivered into Bosnia. Some US officials were concerned that in this action the US had directly violated the UN arms embargo.²⁷

The President's Intelligence Oversight Board (IOB) was secretly commissioned on November 29, 1994 to investigate the green light policy and to determine if any covert action laws were violated. The IOB's classified report sharply criticized the Administration for excessive secrecy but determined that notification of Congress was not necessary. The Administration's actions, according to the IOB, fell within the category of "traditional diplomatic activity," exempt from US covert action laws.²⁸

The IOB investigation had the potential to put the matter to rest, but raised questions of its own. Moreover, the White House, even after receiving the report, failed to advise Congress of the green light policy. What made the situation worse in the minds of many in Congress was the decision by the Administration in April 1996, after the story was out, to bar IOB Chairman Anthony Harrington from sharing the report with Congress or testifying about it under oath.²⁹ Suspensions were heightened.

The Congressional Response

²⁵ LAT, Apr. 17, 1996.

²⁶ LAT, July 14, 1996.

²⁷ LAT, May 21, 1996.

²⁸ Id.

²⁹ Id.

³⁰ LAT, Apr. 17, 1996.

The congressional response to the revelations about the green light affair was strong. Senior Democrats joined Republicans in denouncing the Clinton Administration's failure to consult with or notify Congress of the important change in policy towards Iran and the arms embargo. It was only the widespread bipartisan condemnation that prompted the Administration to admit that it should have consulted Congress. Undersecretary of State Peter Tarnoff acknowledged that he was unaware of any congressional notification, and an Administration official admitted that there is a growing understanding in the Administration that in terms of Congress, this could have been handled better.²¹

In the two years between when the green light policy went into effect and when it was uncovered, there had been numerous meetings between Members of Congress and senior Administration officials discussing policy options on lifting the arms embargo on Bosnia. The failure of the Administration to mention the green light policy in any of these discussions can only be intentional.

A week after the green light decision was made, Deputy Secretary of State Talbot responded to a lengthy list of specific questions on Bosnia that had been submitted by Republican Senator John Warner. In his letter to Senator Warner, Talbot warned that lifting the embargo, as many favored in Congress, could lead to an increased Iranian presence in Bosnia. Talbot did not mention that he had just taken part in a policy decision that would bring Iranians streaming into the region.²²

In midsummer 1994, Democratic Senator and Chairman of the Armed Services Committee, Sam Nunn met with Charles Redman, then chief US negotiator in the Balkans, to discuss ways of aiding the Bosnian cause. Redman failed to mention the fact that the Administration had already made the green light decision. "I don't ever recall anybody in the Administration talking me anything about that," noted Nunn after the cover-up came to light in 1996.²³ Senator Nunn later reflected on the Administration's keeping Congress in the dark. "It seems to me the question is whether Congress should have been informed, not so much as a matter of law but as a matter of comity."²⁴ In response, Ambassador

²¹ LAT, May 2, 1996.

²² Id.

²³ Id.

²⁴ Id.

Redman could only say, "It never came up."²⁵

Senate Majority Leader Robert Dole, speaking on the floor of the Senate, observed:

While we read and heard reports that Iran was smuggling arms to the Bosnians, we did not know the President and his advisers made a conscious decision to give a green light for Iran to provide arms. Indeed, those of us who advocated lifting the arms embargo -- Republicans and Democrats -- argued that if America did not provide Bosnia with assistance, Iran would be Bosnia's only option.²⁶

Deputy Secretary Strobe Talbot offered another response in defense of the Administration: Since the press was reporting on Iranian arms shipments, Congress was properly informed. Democratic Senator Robert Kerrey sharply rebutted the argument. "Do you think, Mr. Secretary . . . that Congress getting the information through what really was half a dozen newspaper accounts in 1994 constitutes knowing more or less what you knew?" Senator Kerrey also observed that for Congress to do its job properly, it must be kept informed by the Executive Branch, particularly in the area of foreign policy. "Certainly, you don't want us reaching a conclusion every time we pick up the newspaper or hear a news account of something terrible going on and knee jerk, particularly when it's a foreign policy question."²⁷

²⁵ Id.

²⁶ 142 Cong. Rec. S 3445 (No. 49, Apr. 17, 1996) (Statement of Sen. Robert Dole).

²⁷ Hearing on US Actions Regarding Iranian Arms Shipments Into Bosnia Before the Senate Select Committee on Intelligence, 104th Cong. (May 28, 1996). Sen. Kerrey also addressed this issue in the first SSIC Hearing on the Iranian Arms

Transfers: "... The Washington Times talks about a wink, that there were discussions in the press, that we're aware as well as the consequences of our having changed the law to say that we're not going to enforce that embargo, that doesn't mean that we were informed, that the committee was informed of a change in policy. . . ." Hearing On Iranian Arms Shipments to Bosnia Before the Senate Select Committee on Intelligence, 104th Cong. (May 21, 1996).

²⁸ Hearing on Iranian Arms Shipments to Bosnia Before the Senate Select Committee on Intelligence, 104th Cong. (May 21, 1996).

House Speaker Newt Gingrich described the chilling effect the cover-up of the green light has had on trust between the executive and legislative branches of government:

Never did Clinton indicate the Administration had given a green light to Iranian arms smuggling If you have been told facts to face by the President of the United States for three years that you can't help the Bosnians and now you learn after all these face-to-face meetings that they were encouraging the Iranians, giving the Iranian arms shipments a wink and a nod, then how do you walk into the next meeting and believe what you are being told?³⁹

Throughout, the congressional reactions to the uncovering of the green light policy was outrage that the Administration had given Iran, the rogue state most actively hostile to US interests around the world, a sanctioned foothold in Europe from which it could launch terrorist campaigns against US personnel across Europe. Congressman Henry Hyde, for example, warned that the policy had to be examined and could not remain buried behind classified documents.⁴⁰ He was of the view that the introduction of the most radical nation in the world . . . into the Balkans in force with weapons to give them a foothold in that most volatile part of the world is incredible folly.⁴¹ He wondered, as many have since, why the Administration had not chosen readily available and far more palatable means of assisting the Bosnians, means that would not endanger the safety of the American people. "There were some dozen countries," Hyde explained, "that could reasonably be asked to provide weapons for the Bosnians - not Iran."⁴²

A strong majority in Congress was also incredulous that the Administration would violate its own declared policy of containing Iran in favor of inviting the radical terrorist regime into the Balkans. Congressman Christopher Cox would speak for many when he denounced the Administration's decision to give the green light. "This policy was absolutely insane," he noted, "Giving Iran a foothold into Europe That's what the policy is about."⁴³ In particular, a great many Members of Congress would express their concern over the increased terrorist threat to US and NATO troops resulting from the

³⁹ LAT, Apr. 11, 1996, at 12.

⁴⁰ Hearing on US Policy in Bosnia Before the House International Relations Committee, 104th Cong. (Apr. 23, 1995).

⁴¹ Risen, House OK's Panel to Probe Arms to Bosnia, Los Angeles Times, May 9, 1996, at 5.

expanded Iranian influence in Bosnia, a threat the Administration chose to overlook.

Yet, not all Members of Congress, particularly in the House, were upset by the revelation of the green light policy. Congressman Alcee Hastings spoke for many of them when he publicly thanked Ambassadors Galbraith and Redman for their efforts in putting together the green light policy:

A central criticism of the "no instructions" policy that you two gentlemen have testified here about allows that, according to some, it permitted the dangerous military and intelligence penetration of Bosnia by Iran.

Yet we know just from using open, public sources, the United States decisions in April of 1994 did not give Iran a beachhead in Bosnia; Iran and other Muslim countries were already there. And I might add for historians and the buffs of history, Islam has been involved in the Balkans since fights with the Ottoman empire, if we just want to go back into it. . . . And any Congressman that did not know all of that, that serves on the Committee on International Relations, was not doing his or her job."⁴⁴

The Genesis and Charter of the Select Subcommittee

The controversy over the secret green light policy culminated in calls for legislative investigations. The House of Representatives' Committees on International Relations, National Security, Intelligence, and Judiciary began investigations, probing the Administration's green light policy in April and May of 1996. At the urging of his Senate colleagues, Senate Majority Leader Dole called upon the Chairman of the Senate Foreign Relations, Intelligence, Armed Services, and Judiciary Committees for parallel investigations.

During initial hearings held by the House International Relations Committee, many questions were raised that demanded further examination:

- Was the US government directly or indirectly involved in the execution of the transfer of Iranian arms, and did any of the Administration's actions violate US law?

⁴⁴ Hearing on US Policy in Bosnia Before the House International Relations Committee, 104th Cong. (Apr. 23, 1995).

- Where did the idea of an Iranian pipeline originate and with whom?
- Why were Congress, the CIA and other government agencies, US allies, and the American public not notified of this decision when it was made or in the nearly two years until the policy was exposed by the press?
- And, why did the President allow the world's most dangerous terrorist state, Iran, to provide arms and establish a foothold in Europe when other friendly nations were willing to help?

In an effort to consolidate the investigations of the four House committees and to further examine these questions, the House leadership and the International Relations Committee Chairman Benjamin Gilman announced a proposal to establish a Select Subcommittee to investigate the United States' role in the transfer of arms from Iran to Bosnia and Croatia during the period when the international arms embargo was in effect. On May 8, 1996, the House approved Resolution 418 which created the Select Subcommittee within the International Relations Committee. The Subcommittee is composed of five Republican Members and three Democrat Members, and is chaired by Henry J. Hyde of Illinois, with Lee H. Hamilton as the Ranking Minority Member.

The Select Subcommittee was given the authority to investigate the following areas:

- The policy of the United States Government with respect to the transfer of arms and other assistance from Iran or any other country to countries or entities within the territory of the former Federal Republic of Yugoslavia during any period that an international arms embargo was in effect;
- The nature and extent of the transfer of arms or other assistance from Iran or any other country to countries or entities within the territory of the former Federal Republic of Yugoslavia during the period that an international arms embargo of the former Yugoslavia was in effect;
- Any actions taken by the United States Government to facilitate or to impede such transfers;
- Any communication or representations made to the Congress of the United States or the American people with respect to the international arms embargo or with efforts to modify or terminate United States participation in that embargo;

- Any implications from the Iranian arms transfers for the safety of United States armed forces deployed in or around Bosnia, for relations between the US and its allies and for United States efforts to isolate Iran;
- And all deliberations and communications between the United States Government and other governments, organizations or individuals relating to such matters.

The Subcommittee's charter ends on November 8, 1996, by which time it is to have transmitted its report to the House International Relations Committee. Given its short lifespan and limited resources, the Subcommittee has attempted to address as many of the key questions as possible. What follows are the results of the Subcommittee's investigations.

CHAPTER 2
THE DISSOLUTION OF YUGOSLAVIA
AND THE EARLY YEARS OF THE BALKANS WAR

The events discussed in this report mainly occurred during and after April 1994. To understand these events, however, it is necessary to have a basic familiarity with the political developments in the former Yugoslavia prior to that date.

The autocratic rule of Yugoslav dictator Slobodan Milosevic suppressed but did not eliminate the strongly divergent and divisive ethnic and religious tensions that have existed for hundreds of years between the various peoples living within the borders of what was Yugoslavia. These rivalries reemerged after Tito's death in 1980, and the centrifugal pull of ethnic identities led to increasingly bitter arguments over the scope and power of the central government. Unable to convince Serbs and Montenegrins that a loose confederation was a viable alternative to the existing Serb-dominated government, Slovenia and Croatia proclaimed their independence on June 25, 1991. Further complicating the situation, several Serb-dominated regions of Croatia declared independence from the new republic.

The central Yugoslavian government based in Belgrade, Serbia promptly declared the Slovenia and Croatia secessions "illegal and illegitimate" and sent the Yugoslav Peoples' Army (YPA) to restore control over the breakaway regions. Hostilities broke out when the Croatian and Slovenian forces refused to lay down their arms. The fighting continued until the Brioni agreement was finalized in early July 1991.

The Brioni agreement called for the immediate cessation of hostilities in exchange for a three-month suspension of the declarations of independence by Croatia and Slovenia. The YPA soldiers began immediately to withdraw from Slovenia, where the Slovenian irregular had been able to hold their own. Despite the agreement, however, the fighting continued within Croatia between the newly independent republic and the Krajina Serbs backed by the YPA forces.

In September 1991, the UN Security Council, through Resolution 713, enacted a general and complete arms embargo over the former Yugoslavia to try to temper the conflict. In October 1991, the three-month moratorium on secession elapsed, and the governments of Slovenia and Croatia formally separated from the former Yugoslavia. Germany recognized both countries as sovereign nations in December 1991. The European Community (EC) followed suit in January 1992.

As Slovenia and Croatia were leaving the former Yugoslavia, a more bitter and protracted conflict was developing in Bosnia-Herzegovina. On October 14, 1991, the National Assembly of Bosnia-Herzegovina passed, by majority vote, a memorandum on sovereignty and independence which stopped just short of declaring outright independence. The following December 21st, the Bosnian Serbs held an unofficial referendum declaring their opposition to withdrawing from the withering Socialist Federal Republic of Yugoslavia (SFRY), and local Serbian leaders proclaimed their independence from Bosnia.

Following the lead of Slovenia and Croatia, Bosnia's Muslim and Croat citizens voted for independence in a March 1992 referendum. The Serbs boycotted. On April 6, the EC recognized the independence of Bosnia-Herzegovina. The following day, the US recognized the nations of Slovenia, Croatia and Bosnia-Herzegovina, and lifted the economic sanctions against the three republics.

The Bosnian Serb minority vigorously opposed the withdrawal of Bosnia-Herzegovina from the rump SFRY that was rapidly becoming a de facto Serbian state. The Bosnian Serbs withdrew from Bosnia-Herzegovina into their self-proclaimed "Serbian Republic of Bosnia and Herzegovina."

Fighting between the Serbs and the Muslim-dominated Bosnian government ensued. The Bosnian Serbs soon seized more than two-thirds of the Bosnian republic's territory and began the siege of Sarajevo. The Serbs managed their successes despite the fact that, according to a 1991 census, they comprised only 31 percent of the population, with the Muslims and Croats having 44 and 17 percent, respectively.¹ Two key reasons the Bosnian Serbs gained such an advantage over the Bosnian Muslims so quickly were that the withdrawing YPA relinquished its large arsenal of weapons to the Bosnian Serb forces as it withdrew and that the YPA soldiers with a Bosnian Serb background stayed behind to become a formidable part of the new Bosnian Serb officer corps.

While the Bosnian Serbs and Muslims were fighting, the Bosnian Croats were

¹ According to the Congressional Research Service, the eight percent of the population unaccounted for in these percentages comprises various other ethnic groups, none of which number more than 1 percent of the total population. Additionally, the 1991 census allowed a "Yugoslavian" response for individuals of mixed heritage (5.5%) and others who declined to identify themselves as belonging to only one ethnic group.

working to consolidate their positions in western Bosnia in their desired multi-state, Herzegovina, which they would proclaim in July 1992. The Bosnian Croats, much like Croatia, would change sides in the Bosnian conflict as the circumstances affected their interests, supporting the Muslim government at this time, then later moving towards the Bosnian Serbs, until shifting again towards the Muslim government when the 1994 Washington Accords established the Bosnian Federation.

On May 30, 1992, the UN Security Council passed Resolution 757. The resolution condemned the SFRY's defiance of UN demands that it cease its interference in the affairs of Bosnia-Herzegovina, and placed an economic embargo on the Federal Republic of Yugoslavia until it fulfilled its obligations under Resolution 752, Resolution 752, which was passed two weeks earlier on May 15, called for an end to the fighting in Bosnia, elimination of influence and forces from both the YPA and Croatia, and respect for the territorial integrity of Bosnia-Herzegovina.

Notwithstanding the UN's efforts, the war continued into the summer. In August 1992, representatives from over 30 countries and nongovernmental organizations met in London at the International Conference on the Former Yugoslavia to bring about a negotiated end to the fighting. The London Conference, co-sponsored by the EC and the UN, named Lord David Owen and Cyrus Vance co-chairmen of the EC-UN steering committee. The Conference affirmed the principle that international borders should be changed only by mutual consent, and called for a cease fire, access to detention camps (by international organizations such as UN High Commission on Refugees or the Red Cross), and the protection of human and minority rights. Unfortunately, the London Conference, like the resolution before it, had little effect on the violence on the ground. Finally, on August 31, Cyrus Vance announced that all parties had already violated the terms of the Conference, including the cease-fire, which they had approved just days earlier.

The Geneva Peace Conference was held the following month, for the purpose of developing means of implementing the lofty principles declared by the London Conference. The Geneva Conference, under the co-chairmanship of Vance and Owen, established six working groups focusing on the most pressing issues confronting the former Yugoslavia: Bosnia-Herzegovina, confidence-building measures, humanitarian issues, economic problems, minority rights and various other legal issues.

The US became aware of the program and denigrate the

Croats, who shut it down. The Iranians were forced to return to their small-scale arms smuggling and training efforts.

In October 1992, negotiators Cyrus Vance and Lord Owen advanced their plan (the "Vance-Owen" plan) to settle the conflict. Their plan was to establish a decentralized state with seven to ten autonomous provinces defined by economic and geographic, rather than ethnic, criteria. The Bosnian Serb leadership promptly rejected the plan the following day.

In response to the Bosnian Serbs, Vance and Owen reworked their plan several times, and in January 1993 the Bosnian Croats approved the measure. The Bosnian Muslims followed suit in March. On May 2, Bosnian Serb President Radovan Karadzic signed the plan under intense pressure by Serbian President Slobodan Milosevic. Two days later, the Bosnian Serb Parliament rejected the plan, and the Vance-Owen process was finished.

There was no hiding the viciousness of the fighting. Genocide was frequently alleged by the combatants and, as the world discovered more and more about the atrocities being inflicted by all sides, the Security Council passed Resolution 808 in February 1993, establishing the War Crimes Tribunal in support of the Resolution, the EC, the UN staff and the US State Department submitted reports documenting the crimes of systematic rape, murder, mutilation, deportation, illegal imprisonment, and "ethnic cleansing" by all parties.

All three sides committed a great many atrocities during this conflict upon innocents, but it appears the Bosnian Serbs were the most egregious in their violations of human rights. It was the Bosnian Serb leadership that set the war aim of creating an ethnically "pure" and geographically contiguous greater Serbia by (seemingly) any means necessary. Unfortunately, it will be future historians who will have to render a more complete accounting of the genocide which occurred.

In May 1993, Bosnian President Alija Izetbegovic warned of a "new aggressor" by Bosnian Croats, and relations between the Bosnian Muslims and Croats steadily worsened. As the fighting intensified around the city of Mostar and throughout central Bosnia, both sides engaged in atrocities and "ethnic cleansing" to solidify gains made on the battlefield.

Also that May, the United Nations Security Council passed Resolution 824, which declared that Sarajevo, Bihac, Stebenica, Tuzla, Gorazde, and Zepa should be treated as "safe areas" and that all Bosnian Serb military units should withdraw from those areas at once. The Security Council followed up the declaration on June 4, 1993 with Resolution

836 extending the mandate of UN Protection Forces and authorized measures, including use of force, to protect these "safe areas." By February of 1994, the situation on the ground had become intolerable for the NATO leadership as the Bosnian Serbs overran Srebrenica and Zepa and besieged and shelled the others, creating appalling humanitarian conditions. Serbian actions had made a mockery of the term "safe area."

The catalyst for increased international action came when a mortar shell landed in a crowded Sarajevo market on February 5, 1994, killing 88 and wounding over 200 civilians. The following day, UN Secretary General Boutros Boutros-Ghali filed his opposition to air strikes and asked NATO Secretary General Manfred Wöerner to seek permission from the North Atlantic Council to secure a heavy weapons exclusion zone around Sarajevo. President Clinton supported the Secretary General's call for air strikes should more violence against civilians occur. On April 10, the NATO Alliance, in its first offensive action since its founding, launched air strikes against Serb positions which had been shelling Gorazde relentlessly. A second strike the following day helped bring the Bosnian Serb advance to a halt, although the Serbs maintained control over a large percentage of the territory acquired in their advance.

The Serbs had also been put on less advantageous terms by the Washington Accords reached the month before. In March, between the Bosnian Muslims and the Croats, *The Accords set up a Federation which, in addition to relieving military pressures on the hard-pressed Muslims, put the Serbs in a difficult strategic situation. The Croats were now freed up to begin preparations for a major offensive to retake the Krajina, and the Muslims were able to shore up their defenses and keep other Bosnian Serb units engaged elsewhere in Bosnia.*

This was, in brief, the situation in the region in April 1994, when Iran again sought to interject itself into the war on a large scale.

CHAPTER 3 THE PUBLIC POLICY OF THE CLINTON ADMINISTRATION ON THE BOSNIAN ARMS EMBARGO - DENIAL AND DECEPTION

This chapter will examine the Clinton Administration's public policy on the UN arms embargo on Bosnia. Starting with the formulation of the Iranian green light policy in April 1994, the actual policy became very different from what the Administration represented it to be in its statements to Congress, the press, and the American people. As is discussed in Section II of this report, where the development and implementation of the Iranian green light policy are discussed at length, the Administration went to extraordinary lengths to keep its diplomatic duplicity under wraps. Senior Administration officials were intent that there should be no US "fingerprints." In the public realm, this went beyond the usual practice of offering "no comment" on allegations of US covert activity; instead, Administration officials from the President on down lied.

Some have criticized the Clinton Administration for a lack of consistency in foreign policy. While this charge could be leveled at several aspects of its Balkans policy, it would largely be unfair in describing the Administration's public record on the Bosnian arms embargo.

Regarding the embargo, the Administration consistently expressed its opposition to the embargo while also consistently stating its unwillingness to take unilateral action to lift it. The concept of unilateral action by the US was fundamentally inconsistent with the "assertive multilateralism" that became the centerpiece of the Administration's foreign policy. *Assertive multilateralism rests on a high regard for the UN as an instrument of foreign policy; a profession of the moral obligation to follow the spirit and letter of international law, and the imperative of multilateral cooperation. In its public statements about the arms embargo, the Administration never deviated from the positions necessitated by these principles, despite the fact that the Administration learned within days of taking office that assertive multilateralism effectively had its hands in working to lift the embargo it believed to be against US interests. It was this quandary that would, in April 1994, lead the Administration to subvert the embargo clandestinely through third parties, specifically Iran and Croatia.*

The Administration's Sea Legs: The Idealism of "Assertive Multilateralism"

Although foreign policy was not a centerpiece of Bill Clinton's presidential campaign, Bosnia was an exception. Candidate Clinton condemned the Bush Administration's policy of nonintervention, "The continuing bloodshed in Bosnia and the former Yugoslavia

demands urgent international action It is time for real leadership to stop the continuing tragedy in the former Yugoslav republics." He expressed confidence that, as president, he could define a policy, working jointly with other countries and the UN, that would stop the fighting and lead to a peace settlement. "We will make the United States the catalyst for a collective stand against aggression, the action I have urged in responses to Serbian aggression in Bosnia."² He provided some specificity in the first presidential debate in October 1992:

I agree that we cannot commit ground forces to become involved in the quagmire of Bosnia or in the tribal wars of Somalia. But I think that it's important to recognize that there are things that can be done short of that, and that we do have an interest there I think we should stiffen the embargo on the Belgrade government, and I think we have to consider whether or not we should lift the arms embargo now on the Bosnians, since they are in no way in a fair fight with a heavily armed opponent bent on "ethnic cleansing." We can't get involved in the quagmire, but we must do what we can.

And, as Governor Clinton would repeatedly stress, "what we can do" meant what we can do in tandem with others, that is to say, within the framework of assertive multilateralism.

As might be expected, considering her key role in implementing multilateral foreign policy, US Ambassador to the UN and cabinet member Madeleine Albright became one of the preeminent public advocates of assertive multilateralism. As she has explained, "the US has three roles it can play internationally: 'world cop,' 'observer,' or 'partner,'" and the Clinton Administration prefers the role of partner. As Ambassador Albright explained:

The fancy word is 'multilateral,' but the ordinary word is 'partner.' I fully believe it is my job at the U.N. and the job of all of us within the foreign policy structure to put an adjective with the partner -- senior, managing, leading, whatever way you want to phrase it. So the term *assertive multilateralism* comes from having a leadership role within a multilateral setting to deal with

¹ Clinton Campaign Statement on Crisis in Bosnia, US Newswire, July 27, 1992.

² Governor Bill Clinton, Address at the Los Angeles World Affairs Council (Aug. 13, 1992).

³ Governor Bill Clinton, Address in the Presidential Debate (Oct. 11, 1992).

the problems that we have to deal with.⁴

Bosnia, for the Clinton Administration, is exactly such a problem: one of those many occasions when, in the words of George Stephanopoulos, "we need to bring pressure to bear on the perpetrators of the post-Cold War period and use our influence to prevent ethnic and other regional conflicts from erupting. But usually we will not want to act alone -- our stakes will be limited and direct U.S. intervention unwise."⁵

The weeks leading up to the inauguration in January 1993 saw the start of new UN-sponsored diplomatic talks on Bosnia in New York. These talks fed the hopes of the new Clinton foreign policy team, anxious to exercise its policy of multilateralism, as well as the hope of an American populace sickened by the viciousness of the fighting.

The heavy days of transition brought forth within the new Administration declarations of major reviews of Bosnian policy alternatives and the strong desire for "improved" options.⁶ Nonetheless, in the case of the former Yugoslavia, these deliberations inevitably led back to Clinton's policy as declared in the election campaign. Secretary of State Warren Christopher, speaking in January 1993 said, "I would stress, as President Clinton has, starting last August, that [Bosnia] does seem to be a place where the United States needs to be activist and internationalist in our outlook."⁷

International Political Reality: The Europeans Say "No"

Yet, once in office, President Clinton found the Bosnian problem much more complex and intractable than he anticipated as a candidate. Despite the rhetorical flourishes and talk of change, practical changes in the policy from that of the Bush

⁴ Hearing on US Participation in United Nations Peacekeeping Activities Before the House Committee on Foreign Affairs, 103d Cong. (June 24, 1993).

⁵ Thomas W. Lippman, *African Crisis Test United US Government: Pressure Builds for More Direct American Intervention as Eritrean Militias Suffer Strife*, Washington Post, June 13, 1993, at A33.

⁶ Carol Glickson, *Clinton to Review Bosnia Policy, Including Lifting the Arms Ban*, The Reuters Library Report, Jan. 22, 1993.

⁷ Alan Elsner, *US Looking at Option of Bombing Bosnian Serb Airfields*, The Reuters Library Report, Jan. 27, 1993.

Administration were difficult to discern. Leaving the new Administration's first Bosnia policy review, Secretary Christopher counseled the press to "lower expectations," particularly in terms of timing.⁴ Where candidate Clinton had been calling for "urgent" international action, President Clinton was now urging caution:

The thing I have not been willing to do is to immediately take action, the end of which I could not see. I want to do -- whatever I want to do, I want to do it with vigor and wholeheartedly, I want it to have a reasonable prospect of success, and I have done the best I could with the cards that I found on the table when I became President.⁵

Given the President's desire to act "with vigor and wholeheartedly," it was still not clear what he wanted to do. Yet, it was also clear that he did not know what it was he wanted to do. Some criticized the Clinton Administration for lacking the political will to enact a policy change. Democratic Congressman Frank McCloskey accused the Administration of being an accomplice in genocide in Bosnia, stating that "when it comes to real action to get the arms embargo lifted from the Bosnian Government, the administration opts out."⁶ It is probably more accurate to say, however, that the lowering of Presidential sights came about as the Administration realized that it had painted itself into a corner by advocating an end to the arms embargo but surrendering the only vehicle by which the embargo could be lifted -- namely, unilateral action by the US. Simply put, neither the UN (the Clinton Administration's preferred multilateral mechanism) nor other international bodies were willing to go along with lifting the embargo. That left the Administration without a vehicle it thought acceptable to implement the changes in Bosnian foreign policy it believed to be in the national interest.

In the first few months of the Administration, the UN, in particular, turned out to be an unlikely forum for a fresh approach. In addition to the UN Security Council being the body that put the embargo in place, the new Clinton Administration found itself in the uncomfortable position of being unwilling to subscribe fully to the ongoing UN-sponsored

⁴ Carol Giacomo, *New Secretary Expresses No Quick Decision on Bosnia*, The Reuters Library Report, Jan. 28, 1993.

⁵ President Bill Clinton, *Question and Answer Session With the National Association of Newspaper Editors* (Apr. 1, 1993).

⁶ 139 Cong. Rec. H4282 (No. 83, June 29, 1993) (Statement of Rep. Frank McCloskey).

Vance-Owen plan it felt would have effectively partitioned Bosnia. For an administration that placed heavy emphasis on the UN and multilateralism in foreign policy, this was not a comfortable situation. Secretary Christopher tried to step around the problem during a trip to the UN in February 1993, saying that the US supported the "process" without necessarily supporting the results.⁷ Two days later, using a location that would later become the hallmark of the Iran green light policy, White House spokesman George Stephanopoulos said President Clinton "does not have any specific support or rejection" of the UN plan.⁸

Some commentators have strongly attacked the tenets of the Clinton Administration's policy of assertive multilateralism. Steven Erlanger, in the *New York Times*, called it "a formula for action that seemed to make the UN the only source of legitimacy for the use of force to keep the world secure," and Peter W. Rodman of the Nixon Center for Peace and Freedom, declared that for multilateralists "America's unilateralism was the principal sin to be avoided, as if to atone for a shameful past."⁹ It was former Secretary of State Henry Kissinger, however, who most astutely identified the inherent weakness of assertive multilateralism. The policy, he said, resigns the US to a belief that "the national interest is on the whole defined by the attainable global consensus."¹⁰ This turned out to be the rest on which the Bosnia policy floundered. Although the Administration wanted to lift the arms embargo as it applied to the Bosnian Muslims, it was unable to lead its global "partners" into a consensus to do so -- and to act unilaterally would require the Administration to violate the philosophical cornerstone of its foreign policy.

The Administration quickly learned that the Europeans, in particular, were unwilling to yield on the fundamental question of lifting the arms embargo. Fighting in eastern Bosnia intensified, and in April 1993, the Serbs, in a much-reported offensive, moved to

⁷ Donald M. Rothberg, *Clinton's Biggest Headache is in Europe*, The Associated Press, Feb. 3, 1993.

⁸ *Id.*

⁹ Stephen Erlanger, *The US and the UN: Now, Who Needs Whom, Moran?*, The New York Times, July 7, 1996.

¹⁰ *Hearing on US National Goals and Objectives in International Relations in the Year 2000 and Beyond Before the Senate Committee on Foreign Relations*, 104th Congress (July 13, 1995) (emphasis added).

capture the town of Srebrenica. President Clinton spoke of his outrage at the fighting, "I condemn it and I have condemned it repeatedly and thoroughly. And I have done everything I could to increase the pressure of the international community on the outages perpetrated in Bosnia by the aggressors and to get people to stand up against ethnic cleansing."¹⁵ The Europeans, however, had refused to go along, and, without their support, the US simply did not have the votes in the Security Council to overturn the embargo. More importantly, though, as President Clinton would repeatedly point out in the years to come, even if we did, it would endanger the humanitarian mission there carried on by the French and British who oppose lifting the embargo.¹⁶ Despite the President's outrage, he steadfastly refused to permit unilateral US actions. Behind this all there continued the drum-beat of keeping US policy within the boundaries acceptable to the UN. As Secretary Christopher declared, "whatever we would do, we would do multilaterally and we would want to do it with the full concurrence of the UN. We would not try to take any shortcuts in the matter."¹⁷

President Clinton's press conference on April 23, 1993, illustrated the irreconcilable tension between US national interests and the Administration's allegiance to assertive multilateralism. On the one hand, the President stated vigorously about Bosnia, "I think we should act. We should lead - the United States should lead." Yet, a few minutes later, in response to a pointed question about multilateralism hamstringing US foreign policy, he conceded the Administration's abdication of policy-making to the UN, "The United States, even as the last remaining superpower, has to act consistent with international law and under some mandate of the United Nations."¹⁸

On May 6, 1993, the Bosnian Serb Assembly rejected the Vance-Owen peace plan, which the Administration had finally come to support. The Administration renewed its call for multilateral lifting of the embargo against Bosnia. Then Secretary Christopher traveled to Europe on an ill-fated mission to win the support of Britain and France. His character, evidently, was not broad enough to allow him to negotiate the issue forcefully. Later,

¹⁵ President Bill Clinton, Question and Answer Session With the National Association of Newspaper Editors (Apr. 1, 1993).

¹⁶ *Id.*

¹⁷ Alan Elsner, Clinton Hiss, *From Dayton to Yugoslavia*, The Reuter Library Report, Apr. 22, 1993 (emphasis added).

¹⁸ President Bill Clinton, Press Conference (Apr. 23, 1993).

Secretary Christopher would admit that the effort had been a mistake. "The way that I made the trip to Europe in May 1993 was not consistent with global leadership."¹⁹ After that, the Administration more openly acknowledged its political impotence. President Clinton explained:

Let me tell you something about Bosnia. On Bosnia, I made a decision. The United Nations controls what happens in Bosnia. I cannot unilaterally lift the arms embargo. I didn't change my mind. Our allies decided that they weren't prepared to go that far at this time. They asked me to wait, and they said they would not support it. I didn't change my mind.²⁰

It was also at about this time that Undersecretary of State Peter Tarnoff indicated the US had to rethink its international role and realistically reappraise the degree to which it could hope to act and influence international events unilaterally. This doctrine, the so-called "Tarnoff Doctrine," was eventually disavowed by President Clinton. A Congressional Research Service report noted, however, "US policy on Bosnia appeared to confirm Mr. Tarnoff's views rather than contradict them. Lifting the arms embargo, while in principle favored by the Administration, was not viewed as a viable option without the participation of other allies."²¹

On June 30, the Administration suffered yet another defeat in changing US policy. It was the only other Security Council member to back a resolution put forth by five non-aligned member countries to lift the embargo. Even though President Clinton had previously asserted that the US should take the lead in formulating international policy towards Bosnia, the US did not push strongly for its adoption,²² and Russia, France, and Britain joined other Council members in harshly defeating the measure. The result was that a policy change the Administration deemed to be in the national interest was

¹⁹ Elaine Sciolino, *The Clinton Record: Foreign Policy: Bosnia Policy Stalled By U.S. Military Role*, *The New York Times*, July 29, 1996, at A15.

²⁰ President Bill Clinton, Press Conference (June 15, 1993).

²¹ Julie Kim and Dianne E. Rennick, *Bosnia-Yugoslavia Conflict and the 103rd Congress: Policy Debates and Summary of Major Legislation*, Congressional Research Service (CRS), Report for Congress 94-1008 F, at 7.

²² Steven Wooten, *Bosnia-Yugoslavia: Summary of the Debate On a Unilateral Lifting of the Arms Embargo*, CRS, Report for Congress 95-477 F, at 5.

squelched yet again by the UN.

In July, the President was again put on the defensive in a press conference when a questioner referred to the Administration as being "indecisive" in formulating a Bosnia policy. He replied,

Let me, first of all, point out what the United States has done just since I've been President. We spent a great deal of money on humanitarian aid; we have pushed hard for strengthening the embargo against Serbia; we have pushed for a number of other things to try to help resolve the situation that we have all agreed on.

I did not back away from my position, sir. Britain and France and Russia said they would not support that position within the United Nations. The United States cannot act alone under international law in this instance.²⁷

In July, as Serb forces stepped up their assault on Sarajevo and threatened to overturn the Bosnian capital, the Administration finally was moved to act. It announced that, while it hoped to work with the allied states, it was prepared to act unilaterally with air strikes to break the siege of Sarajevo. It is hard to know how serious the Administration was in making this statement. No military action was ever taken, although the threat did motivate NATO to meet in August to consider joint action. Even then, NATO ceded its authority to the UN Secretary-General to determine if military action was warranted and to call for air strikes.

The President's subsequent statements squarely contradicted his professed willingness to take unilateral action and reaffirmed his commitment to multilateralism, no matter what the consequences for US national interests. Seven months later, on February 6, 1994, the day after a rocket attack on a crowded market in Sarajevo killed 68 people, President Clinton made his most categorical statement yet on his interpretation of the limits on US sovereignty in using its military. "The United States, I will say again, under international law, in the absence of an attack on our people, does not have the authority to unilaterally undertake air strikes."²⁸

²⁷ President Bill Clinton, Press Interview (July 2, 1993).

²⁸ The Late Edition: US Responds to Attack in Sarajevo, CNN Television Broadcast (Feb. 6, 1994) (emphasis added).

In the same month, February 1994, arguing against Senator Dole's legislative proposal to lift the embargo, Madeleine Albright advanced another argument that the Administration would frequently use -- lifting the embargo would set a precedent allowing states to pick and choose which of the internationally sanctioned embargoes and sanctions they will enforce:

Frankly, what will happen is, if we decide to lift the embargo unilaterally against -- on this particular issue, then there will be those who will decide that we can just not abide by the international embargo against Iraq or against Libya. This is an international system, whereby we deal with rogue states, Iraq and Libya, through an international embargo. We depend on the international community to abide by it. And, even though we do not think it is appropriate for the Bosnian Muslims to be embargoed at the moment, it is an international decision that we cannot change unilaterally.²⁹

A few months later, in April, with renewed and increasingly bipartisan criticism of the Administration's refusal to lift the embargo, President Clinton made a similar argument, "If we ignore a United Nations embargo because we think it has no moral basis or even any legal validity, but everyone else feels contrary, then what is to stop our United Nations allies from ignoring the embargoes that we like, such as the embargo against Saddam Hussein? How can we ever say, again to all of the other people in the United Nations, you must follow other embargoes?"³⁰

By mid-1994 there was bipartisan consensus in Congress that the US should lift the Bosnian arms embargo unilaterally. This opinion was shared by many of those who supported a more active US role in stopping the fighting, as well as by many who still believed the US should be cautious in any action that could commit it to a role on the ground in the region. On May 25, Representatives Newt Gingrich, Dick Armye, and Henry Hyde urged the President to "act in our national interest and not rely on the UN to determine our policy."³¹

In late summer, with peace talks stalled, Congress began working on several

²⁹ *Ibid.*

³⁰ President Bill Clinton, Press Conference (Apr. 20, 1994).

³¹ Letter from Reps. Newt Gingrich, Richard Armye and Henry Hyde to President Bill Clinton (May 25, 1994) (emphasis in original). See Appendix B.

options to remove the embargo. This eventually led to Section 1404 of the fiscal year 1995 National Defense Authorization Act.²⁸ According to that legislation, if the Bosnian Serbs did not accept the Contact Group peace plan by October 15, the President was to introduce a resolution at the Security Council to lift the arms embargo multilaterally no later than December 1. Moreover, should such a resolution fail to pass, no US funds were to be expended after November 15 to enforce the continued embargo. This provision is commonly referred to as "Kurn-Mitchell" after its Senate sponsors. Since it was clear the Security Council would defeat a resolution to lift the embargo, the Administration halted the use of US funds effective November 12, 1994. It also ended the deployment of American ships in the Adriatic Sea for embargo enforcement and ended the sharing of intelligence on embargo violators with other countries.

In all other respects, the Administration's policy remained unchanged, particularly its opposition to unilaterally lifting the embargo. Although the Administration consulted with Congress on possible plans to aid the Bosnians unilaterally (as was also required in the legislation), the Administration made it clear it would not accept any form of unilateral action by the US. Indeed, on January 8, 1995, Vice President Al Gore warned that the President would veto any bill requiring a unilateral lifting.²⁹ This actually came to pass on August 11, 1995, when the President vetoed S-21, a bill calling for the unilateral lifting of the embargo after the withdrawal of UN peacekeepers from Bosnia or 12 weeks after the government of Bosnia-Herzegovina requested that UN peacekeepers leave, whichever came first.

Another concern expressed repeatedly by the Administration during its debates with Congress in 1995 about the unilateral lifting of the embargo was that it could lead to one of two possible situations, both of which were worse than the status quo. The first was the "Americanization" of the war. The second (and this is truer in light of the Administration's ongoing secret Iranian green light policy) was the introduction of Iranians into the war.

The logic behind the fear of "Americanization" was that the nation that lifts the embargo unilaterally will be held responsible for what follows. While House Press Secretary Mike McCurry explained that the Administration "strenuously" opposed a unilateral lifting of the embargo because it would "give the US unilateral responsibility for

²⁸ US Public Law 103-337.

²⁹ Ron Fournier, *Globe*, USS SINK Backs Yehosh, Despite Apparent Lack of Control, The Associated Press, Jan. 8, 1995.

the devastating consequences."³⁰ Consequently, if the Bosnian military were to begin to falter after the lift, the US would have to step in to train, arm, and possibly defend its new dependents. American intervention, the argument went, became all the more likely because a unilateral lifting by the US would likely have led UN peacekeepers to withdraw from the region. Thus, not only would US intervention be required to prop up Bosnian forces, it would also be required to aid the withdrawal of UN forces.³¹

The most distinguishing of the Administration's arguments was that lifting the arms embargo could allow the Iranians a foothold in Europe. The argument was that if the US were to lift the embargo, without itself arming the Muslims, Iran would fill the vacuum and thereby "establish a presence" in Bosnia and the Balkans.³² (As shown in Section III of this report, the Administration had already secretly acquiesced in Iran's filling the existing vacuum.) It was against such an argument that Senator Dole spoke on June 5, 1995.

[W]hen those of us who advocate lifting the arms embargo . . . point out that other countries would also participate in arming the Bosnians, we are told that this would allow Iran to arm the Bosnians. The fact is the arms embargo has guaranteed that Iran is a key supplier of arms to Bosnia and administration officials have actually used that fact to argue that there is no need to lift the arms embargo From statements made by State Department officials to the press, one gets the impression that Iran is the Clinton Administration's preferred provider of weapons to the Bosnians. If the Administration has a problem with Iran arming Bosnia, it should be prepared to do something about it.³³

³⁰ Mike McCurry, White House Press Briefing (July 18, 1995).

³¹ "There is no question that unilaterally lifting the arms embargo, if the United States took that action, would lead U.N. troop-contributing nations to quickly withdraw their troops. That would then trigger, as you all know, a commitment we have to our allies to help extract them. So it is almost a dead-certain bet that lifting the arms embargo would mean U.S. ground troops would have to be present in Bosnia very shortly." Mike McCurry, White House Press Briefing (July 12, 1995).

³² Mike McCurry, White House Press Briefing (June 9, 1995).

³³ 141 Cong. Rec. S7880 (No. 92, June 5, 1995) (Statement of Sen. Robert Dole) (emphasis added).

Senator Dole had no idea at the time how true his words were about Iran being the Administration's "preferred provider" of weapons. His mistake, like that of his colleagues in Congress, was in believing the Administration's denials of complicity and thinking no administration would be so foolish as to permit Iran - the world's leading sponsor of state-sanctioned terrorism - to establish a foothold in Europe.

It would seem that the Administration would not want to revisit this particular argument, knowing how it would look when the truth finally emerged. Yet a month later, in July 1995, White House spokesman McCurry could not resist speculating sarcastically that Senator Dole, in his calls for lifting the embargo, was presumably ready to surrender Bosnia to Iran.²⁴ It would not be until spring 1996 that Congress and the American people would learn the truth and appreciate the irony behind McCurry's statement. A year before he accused Senator Dole of being willing to give the Iranians a free ride into Bosnia, the Clinton Administration had already laid out the welcome mat for Iran.

Denial of the Iranian Green Light Policy

As is discussed elsewhere in this report, the Administration's public pronouncements about its policy on the embargo significantly diverged from actual practices starting in April 1994. It was then that President Clinton authorized the giving of a secret "wink and a nod" or "green light" for the covert transshipment of Iranian arms to the Balkans. The development of that covert policy is treated at length in Section II of this report. In this chapter, treating the publicly acknowledged policy, we will only discuss the official denials that were made as elements of the policy began to leak to the press.

The flow of Iranian arms through Croatia was difficult to disguise, and the opening of the so-called arms pipeline to Bosnia was reported in the US and European press within weeks.²⁵ An obvious question for the press and our allies with troops on the ground in the

²⁴ "Our view has been it is highly questionable morally for the United States Congress to say that we are unilaterally lifting the arms embargo so that Muslims can have a fair fight, and then not do anything to provide them exactly those armaments that we've been talking about. There's some vague notion on Capitol Hill that perhaps they could get them from inventories of the former Soviet Union stocks. Perhaps they could get them from Iran, I guess Senator Dole is saying." Mike McCurry, Press Conference (July 18, 1995) (emphasis added).

²⁵ E.O. Bill Gertz, *Iranian Weapons Sent Via Croatia*, Washington Times, June 24, 1994; Robert Block, *US Turns a Blind Eye to Iran Arms for Bosnia*, The

region concerned whether the US was involved in either setting up or sanctioning the operation.

On May 13, 1994, two weeks after the Administration gave the green light, State Department spokesman David Johnson commented on reports of Iranian shipments through Zagreb, "It is the policy of the United States to respect the UN arms embargo on the nations that formerly comprised Yugoslavia." He quickly added that the US believes "It's important that UN Security Council resolutions be fully observed," a broader statement that suggested that the US expected other nations to respect the embargo as well.²⁶

On June 3, the British newspaper, *The Independent*, reported that Iranian sources "close to the government and opposition in Tehran, claim that elements in President Bill Clinton's administration have made it clear that America would not interfere with Iran's attempts to circumvent the international arms embargo on Bosnia."²⁷ The same article contained official US denials. Nonetheless, the issue would not die, and the press continued to pursue the story.

Later in June, the Administration once again was faced with a press story that threatened to uncover the green light policy. An article by Bill Gertz of the *Washington Times* led with the sentence, "Croatia has become a major transit point for covert Iranian arms shipments to Bosnia with the tacit approval of the Clinton administration, which publicly remains opposed to a unilateral lifting of the international arms embargo against the fractured Balkan states." But in the same article a "senior U.S. official" said that the US government opposed the Iranian arms shipments because they undercut UN sanctions. "There is no U.S. support for what Iran is doing," the official said.²⁸ That same day press guidance issued by the State Department explicitly denied active complicity and any sort of acquiescence. "It is the policy of the United States to respect the UN arms embargo on the nations that formerly comprised Yugoslavia. We strongly believe that UN Security

²⁶ *Independent*, June 3, 1994.

²⁷ US Mun on Report of Iran Arms to Bosnia, Reuters World Service, May 13, 1994.

²⁸ Robert Block, *US Turns a Blind Eye to Iran Arms for Bosnia*, The *Independent*, June 3, 1994, at 14.

²⁹ Bill Gertz, *Iranian Weapons Sent Via Croatia*, Washington Times, June 24, 1994, at A1.

Council resolutions must be fully respected.³⁹ This guidance would be sent out repeatedly in the following months.⁴⁰

Subsequent press guidances and public statements from the State Department, National Security Council and the White House consistently denied any US role in the Iranian arms pipeline. At the State Department's daily press briefing on November 7, for example, spokesman Christine Shelley was asked directly if the US was contributing to, or turning a blind eye to, the violations of the arms embargo. The response was clear and categorical, "We're certainly not contributing to it, and we certainly are not turning a blind eye. We have been a major participant, as you know, in the enforcement of all the different UN Security Council resolutions which have been passed in the past."⁴¹

Congress took the Administration at its word, yet the press and intelligence reporting indicated the Iranian arms kept flowing and, in the wake of such reports, the growth of Iranian influence in the region became increasingly a matter of concern. While the Administration still denies the linkage, at least for Congress it was obvious from the beginning that there was a direct connection between the provision of Iranian weapons and assistance and the growth of Iranian influence. Senator Dole in January 1995 argued that S 21, his legislation lifting the embargo, "would reduce the potential influence and role of radical extremist states like Iran" in the Balkans.⁴² The Administration nevertheless vetoed the legislation. As on many other occasions, it chose not to advise Congress that the actual Administration policy was that "at the highest level we do not wish to interpose ourselves" between the Iranians and the Balkans - that is, to permit Iran to use arms transfers to solidify its influence in the region.⁴³

In April 1995, a year after the green light policy went into effect, a Washington Post story reopened the question of the US's tacit approval of Iranian arms transfers. Department of State press guidance on April 14 posed the following hypothetical question and guidance on its answer:

³⁹ Department of State, Daily Press Guidance, June 24, 1994.

⁴⁰ E.g., Department of State, Daily Press Guidance, June 27 and Aug. 3, 1994.

⁴¹ DOS cable, State 300842, Nov. 7, 1994 (emphasis added).

⁴² 141 Cong. Rec. S211 (No. 1, Jan. 4, 1995) (Statement of Sen. Robert Dole).

⁴³ Peter Galbraith, Memorandum for the File, May 6, 1994.

Q: Is Iran delivering arms to the Bosnians? Does the US tacitly approve of this activity? What are we doing about it? How do we reconcile this policy with our more general concern about Iranian arms sales?

A: Contrary to the impression left by this morning's Washington Post story,

- [T]he US neither "allows" nor "tacitly accepts" the provision of Iranian arms to Bosnia or to any other country.

- It is the policy of the United States to respect the UN arms embargo on the nations that formerly comprised Yugoslavia

- The United States has on many occasions made known its strong objection to the behavior of the Government of Iran. We are actively involved in international efforts to isolate Iran and prevent it from engaging in illegal and dangerous weapons transfers.⁴⁴

In July of 1995, the President and Secretary of State confirmed the press guidance set forth above as the Administration's declared policy. In a CNN interview on July 28, 1995, President Clinton was asked if the US was "orchestrating the transfer of arms to the Bosnian Muslims through Arab or Middle-Eastern countries or anywhere else." The answer was a curt "no." On the same program, Secretary Christopher stated, "We are not as I repeat myself, covertly supplying arms [to Bosnia] or taking steps to support arms."⁴⁵ The next day, Secretary Christopher was quoted in the press as saying, "The United States is not, underline not, covertly supplying arms or supporting the supply of arms to the Bosnian government."⁴⁶

Perhaps the most categorical false denial of the green light came in the National Security Council's press guidance of February 2, 1996, only two months before the Administration finally admitted its true policy towards Iranian arms transfers. This time, the Administration was concerned with slaying suspicions raised by another Washington Post

⁴⁴ DOS cable, State 092370, Apr. 14, 1995 (emphasis added).

⁴⁵ The Late Editor: US Denies Furnishing Arms to Bosnian Muslims, CNN Television Broadcast (July 28, 1995).

⁴⁶ Bill Gertz, *Party Thousands, Massive A.C.*; Christopher Denies Report of Covert Arms Shipments, *The Washington Times*, July 29, 1995, at A9.

story, this one alleging US involvement with a Saudi program to arm the Bosnians. Again, the guidance is given in hypothetical questions and answers. They are quoted at length below. This is necessary to document the degree to which the Clinton Administration was willing to misrepresent the truth in order to cover up their policy to allow Iran to develop a foothold in Europe through Bosnia.

[Q.] Response to allegations in the Washington Post that the United States cooperated with Saudi Arabia in a program to arm the Bosnians over the past three years.

[A.] We categorically deny the allegations in the Post story that the US was in any way involved with the purported Saudi program to arm the Bosnian Government. In violation of the UN arms embargo. While this Administration consistently argued that the arms embargo unfairly punished the victim of aggression during the Bosnian conflict, it was always our policy to abide by the terms of the arms embargo. We opposed a unilateral lifting of the embargo because it would undermine respect for other binding UNSC resolutions, including economic sanctions against Serbia, Iraq and Libya. *The US did not cooperate, coordinate or consult with any other government regarding the provision of arms to the Bosnians.*

[Q.] But weren't you aware of covert arms assistance to the Bosnians by the Saudis and other countries, such as Iran?

[A.] No such shipments were taken in consultation or coordination with the US government.

[Q.] If you were aware of these shipments, why didn't you stop them?

[A.] We have always made clear that we were abiding by the arms embargo and that we expected other countries to do so as well.⁴⁷

⁴⁷ National Security Council, Daily Guidance Update, Feb. 2, 1996 (emphasis added).

The Clinton Administration's consistent assertion of the need for assertive multilateralism was matched in effort and practice only by its insistence in falsely denying its "Iranian green light" policy. The truth finally came to light with the publication of the series of highly detailed and well-informed Los Angeles Times articles starting on April 6, 1996.⁴⁸ It was only then that the Administration ceased its denials and deceptions and admitted what its true policy was – to allow Iran to purchase influence in the Balkans by supplying arms.

⁴⁸ The articles have been discussed at length in Chapter One.

CHAPTER 4
THE PUBLIC POLICY OF THE CLINTON ADMINISTRATION ON IRAN

In the preceding chapter, we have discussed at length the Clinton Administration's public policy of duplicity and denial regarding its green light to the Iranians' breaking the UN arms embargo in the former Yugoslavia. What makes the green light policy scandalous is that the Administration chose to use Iran, of all countries, to carry out a policy that the Administration was legally able, but unwilling to carry out itself. The green light decision allowed Iran to expand economic and diplomatic relations in a volatile and unstable part of the world and, worse, to establish programs of military, security, and intelligence assistance and cooperation of unprecedented scope in Europe. This decision was made despite the US's firmly entrenched policy of isolating and containing Iran. The threat from Iran has been as clear as has been the US policy response to the threat, at least prior to the Administration's green light policy. For this reason the green light is not only an inexplicable reversal of long-standing US policy, it is a case of appallingly bad judgment in which US national interests were sacrificed out of the Administration's policy-based objections to unilateral actions by the US to protect American interests.

In later chapters, we will demonstrate how such an indefensible decision was made and the effect it has had in radicalizing certain elements in Bosnia, as well as buying Iran influence in the region. In this chapter, we will simply establish the fact that in its public pronouncements, the Administration has advocated an Iranian policy that is totally incompatible with its actions in Croatia and Bosnia.

Recognizing the Problem: Iran

The Clinton Administration deserves credit for its public statements recognizing Iran's preeminent role as a state sponsor of terrorism. According to the annual State Department report on international terrorism issued on April 1996,¹ Iran is "the premier state sponsor of international terrorism and is deeply involved in the planning and execution of terrorist acts both by its own agents and by surrogate groups." The report goes on to note that Iran continues "to view the United States as its principal foreign adversary, supporting groups such as Hizbullah that pose a threat to US citizens. Because of Tehran's and Hizbullah's deep animosity towards the United States, US missions and

personnel abroad continue to be at risk."² Two years earlier, the annual report reached much the same conclusion:

Iran again was the most active state sponsor of terrorism and was implicated in terrorist attacks in Italy, Turkey and Pakistan. Its intelligence services support terrorist acts – either directly or through extremist groups Iran still surveys US missions and personnel. Tehran's policymakers view terrorism as a valid tool to accomplish their political objectives, and acts of terrorism are approved at the highest levels of the Iranian government.³

In this document, which, ironically, was published the very month of the Administration's green light decision, the Administration provided information that would lead one to believe the Administration would be making efforts to crack down on Iran's involvement in Bosnia and Croatia rather than "walk and nod" at it:

Bosnian Vice President Ejup Ganic warned in June [1993] that Bosnians living in Europe were likely to resort to terrorism if the West did not come to Bosnia's aid, and outside terrorist groups are reported providing support to the Bosnian Muslims. In August, Croatian authorities confiscated weapons, explosives and false documents from a "terrorist" network that had been aiding Bosnia. Hizbullah and Iran have provided training to the Bosnian Muslim army.⁴

Section III of this report further documents the extensive information available to the Administration on Iran and its surrogate activities in the former Yugoslavia prior to the green light as well as after.

The Policy Response to the Iranian Threat

Not only has the Clinton Administration been clear in acknowledging Iran's threat to US national interests and world stability, the Administration has also been consistent (other than in the former Yugoslavia) in articulating and adhering to a policy that was meant to isolate Iran politically, economically, and militarily. Such isolation, it was hoped,

¹ *Id.* at 25.

² Department of State, *Patterns of Global Terrorism*, 1993, Apr. 1994, at 22.

³ *Id.* at 11.

⁴ Department of State, *Patterns of Global Terrorism*, 1995, Apr. 1996, at 24.

would lead to the regime's moderation.⁵

Secretary Christopher encapsulated the Iran policy and its rationale in May 1984 in a speech before the American Jewish Committee Conference:

Well, Iran is an outlaw country in my judgment and deserves to be treated with containment and isolation. It is not only their weapons of mass destruction program that concerns us, but their need to terrorize around the world. Their ugly hand can be seen not only in the Middle East but in Africa and some places in Europe. Their determined opposition to the peace process in the Middle East is only one of the reasons why I think that they do not deserve the approbation of the international community.

We cannot expect to end all trade with them, but I think what we can urge our allies is to not give them concessions and not welcome them into the family of nations and accord the advantages of that kind of status. The United States will be working hard in this vein, feeling it's necessary to try to isolate them, to try to contain them until there is a change in their attitudes toward their neighbors and toward the rest of the world.

... Iran is a country that I think deserves our very close watching, and until they make a major change in their policy, I think the United States' present policy of isolation and containment is the correct one.⁶

⁵ The Clinton Administration has attempted to link its Iran policy with its policy vis-a-vis Iraq in a regional strategic policy it has termed "dual containment." This policy was outlined by Martin Indyk, Special Assistant to the President for Near East and South Asian Affairs at the National Security Council (NSC), in May 1983, and makes up a significant portion of National Security Advisor Anthony Lake's Foreign Affairs article *Containing Backlash States* (Vol. 73, No. 2, Mar./Apr. 1984), at 45-55). The dual containment policy has received significant criticism by Middle Eastern foreign policy experts as being illogical and counterproductive in implementation. However, for our purposes it is not necessary to review the Iran policy in this larger regional strategic context. It is sufficient to note that there is a clear and unambiguous policy of isolating and containing Iran so as to moderate its policies.

⁶ Secretary of State Warren Christopher, Remarks at the American Jewish Committee Conference (May 5, 1984).

More than just keeping up the rhetorical drum-beat of calls to isolate Iran, the President has also taken action to further that objective and increase the pressure on its leadership to moderate its many objectionable policies. In May 1985 the President signed an executive order banning, in effect, all US trade and investment in Iran.⁷ In August 1986, the President signed the Iran and Libya Sanctions Act, a bill that had passed the House without a single dissenting vote, imposing sanctions on foreign companies exporting petroleum-related technology to Iran. In regard to this bill, the President said, "You cannot do business with countries that practice commerce with you by day while funding or protecting the terrorists who kill you and your innocent civilians by night. That is wrong. I hope and expect that before long, our allies will come around to accepting this fundamental truth."⁸ As National Security Advisor Lake has noted, those countries that believe positive inducements will work with Iran are wrong and improvement in relations must come about only as a reward for Iran's moderating its objectionable behavior. "The most effective message is a consistent one: no normal relations until these [objectionable] actions end."⁹

The Administration turned its back on this established principle of American foreign policy in making the green light decision. Instead of "isolating" and "containing" Iran, as Secretary Christopher had promised, the Administration's policy in the Balkans was "at the highest level we do not wish to interpose ourselves between the Iranians and the Croats."¹⁰ In allowing Iranian arms transfers to Bosnia, the Administration essentially forced the Bosnians into a position of dependence on, and subservience to, Iran. This would soon come back to hurt the Administration.

⁷ Executive Order No. 12959, 60 Fed. Reg. 24,757 (1995).

⁸ Public Law 104-172.

⁹ President Bill Clinton, Address at George Washington University (Aug. 5, 1986).

¹⁰ Anthony Lake, *Containing Backlash States*, supra at 5.

¹¹ Ambassador Peter Galbraith quoting Principal Deputy Assistant Secretary of State Alexander Vershbow in a May 5, 1994 telephone conversation. Recounted in a Memorandum for the File by Galbraith, dated May 6, 1994.

SECTION TWO: THE INVESTIGATION AND ITS FINDINGS

CHAPTER 5

CONDUCT OF THE SUBCOMMITTEE INVESTIGATION

Testimony

The Select Subcommittee sought to take depositions from all significant participants in the events under investigation. In some instances, interviews, rather than depositions, were conducted by special investigators, who were detailed as a joint resource to the Subcommittee staff.¹ Both the majority and minority staff were represented at every deposition and interview. The deposition testimony was transcribed by a certified court reporter who is provided by the Office of Official Reporters to Committees of the House of Representatives. Depositions were conducted under oath in a question and answer format. Interviews were conducted by the Select Subcommittee staff and by the special investigators. Interview witnesses were not put under oath.

The Select Subcommittee took the depositions of 27 witnesses and interviewed approximately 55 others.

The following individuals (listed in alphabetical order) appeared for depositions: Janet S. Andres - former Executive Assistant to Director of Central Intelligence; Reginald Bartholomew - former Special Envoy to the former Yugoslav; General Wesley Clark - former Director of Strategic Plans & Policy (J-5) on the Joint Staff; Thomas Donlon - Assistant Secretary of State for Public Affairs and Chief of Staff to the Secretary of State; Ambassador Peter W. Galbraith - Ambassador to Croatia; Colonel Richard C. Herick - Defense & Army Attaché, Embassy Zagreb; Ambassador Richard Holbrooke - former Assistant Secretary of State for European and Canadian Affairs; Richard A. Holzapfel - former Political Officer/Second Secretary, Embassy Zagreb; Susan C. Hovancec - former Public Affairs Officer; Embassy Zagreb; Ambassador Robert Hunter - Permanent US Representative to the North Atlantic Council; Ambassador Victor L. Jockovich - former Ambassador to Bosnia; [REDACTED]

Douglas MacEachin - former Deputy Director for Intelligence, Central Intelligence Agency (CIA); Thomas D. Mikolich - former Economic/Commercial Officer, Embassy Zagreb; Ronald J. Neitzke - former Deputy Chief of Mission, Embassy Zagreb; Rudolf V. Perina - Chief of Mission, Embassy Belgrade; Charles E. Radman - former Special Envoy to the former Yugoslav; Lt. Colonel Robert J. Saylor - Defense Attaché, Embassy Zagreb; Lt. Colonel John E. Sney - former G-2

¹ See Appendix A.

Intelligence Chief for Bosnia/Herzegovina Command, UNPROFOR; Charitra Stotman - former secretary to Ambassador Galbraith; Strobe Talbot - Deputy Secretary of State; Peter Tarnoff - Undersecretary of State for Political Affairs; [REDACTED]
Alexander R. Vershbow - former Deputy Assistant Secretary of State for European and Canadian Affairs; James Woolsey - former Director of the CIA; Kathryn Zabelanis - former Secretary to Deputy Chief of Mission Neitzke; [REDACTED]

The Select Subcommittee staff, including staff investigators, also conducted interviews, not taken under oath, of the following individuals: Mark E. Anderson; Terri Lee Baker; Richard C. Barkley; Frederick Baron; Maria Barton; Samuel Sandy Berger; Robert L. Burkhardt; Ambassador Lawrence Butler (telephonically); Robert Caudle; Peter Corlotti; Robert Davis; former Senator Dennis DeConcini; Dushka Djuroc; Robert P. Finn; former Speaker of the House Thomas S. Foley; Philip S. Goldberg; Jane Green; Anthony J. Harrington; Christopher R. Hill; Christopher J. Hoh; Swanee Hunt; Stephen H. Klump; National Security Advisor Anthony Lake; former Republican Leader of the House of Representatives Robert Michel; John Morys; Imam Sevdic Omerbasic; Roma Pazzrali; Shane Pitzer; Susan Ray; John Rizzo; William G. Root; James W. Sweger; Mildred Tangney; Alexander "Sandy" Vershbow; Paul Vogel; Ambassador Jeanne Walker; Thomas G. Weston; Philip C. Wilcox, Jr.; and John S. Wolf.

Briefings of Subcommittee staff and special investigators at CIA Headquarters were given by the following CIA analysts of the Directorate of Intelligence: [REDACTED]

Under advisement of their agency or for other reasons, several of the above individuals declined to testify under oath. The National Security Council (NSC) declined to have its employees testify under oath, including National Security Advisor, Anthony Lake and his deputy Samuel "Sandy" Berger. Chairman of the President's Intelligence Oversight Board, Anthony Harrington, at the instruction of the White House Counsel, also declined to testify under oath. Secretary of State Warren Christopher, Secretary of Defense William Perry, and Leon Faurth, Assistant to the Vice President for National Security Affairs, all declined to sit for a staff deposition.

In addition, the Select Subcommittee acquired copies of relevant testimony given by several individuals in closed hearings conducted by the House Permanent Select Committee on Intelligence (HPSCI). HPSCI was most generous in sharing these and other resources for review by the Select Subcommittee. The Senate Select Committee on Intelligence (SSCI) also provided the Select Subcommittee access to transcripts of its

relevant closed hearings. In addition, SSCI offered the services of their special investigators who shared their research and information they obtained during their investigation of this issue.

Acquisition of Classified and Non-Classified Federal Government Documents

Throughout the Subcommittee's investigation, documents were obtained from several Federal agencies. Documents were processed, each identified with a date stamp number and stored in a Sensitive Compartmented Information Facility (SCIF).

The Select Subcommittee sought relevant documents from numerous federal agencies. These agencies included the Central Intelligence Agency (CIA), the Department of Defense (DOD), the National Security Agency (NSA), the National Security Council (NSC), the Department of Justice (DOJ), the Intelligence Oversight Board (IOB), the US Information Agency (USIA), and the Department of State (DOS). The Select Subcommittee initially submitted written requests to Federal agencies based on information available in the public record. The agencies identified responsive documents and, with some exceptions, made them available for review. Security arrangements were made for the review of classified documents, in accordance with proper security procedures. The Conference Room, within the Select Subcommittee offices, was stamined for surveillance devices whenever deposition testimony was given or classified documents reviewed.

Some agencies permitted the Select Subcommittee to retain copies of pertinent documents, and others provided documents which were to be returned following this investigation. Review of highly classified documents was conducted in a secure facility at the various agencies, and only notes were permitted to be removed by the staff.

Central Intelligence Agency (CIA)

Two staff members from both the Majority and Minority staff were given unrestricted access at CIA headquarters, to a wide variety of requested materials, including over a 1,000 documents and cables related to our inquiry. The Select Subcommittee also received over 1,000 pages of CIA finished intelligence products for review at the Subcommittee.

Department of Defense (DOD)

Both the National Security Agency (NSA) and the Defense Intelligence Agency (DIA) offered their cooperation in providing the Select Subcommittee with documents relating to the Balkans crisis. Several hundred NSA documents were reviewed by staff at NSA

headquarters, and approximately 150 pages of materials were made available for review at the Select Subcommittee offices. DIA also compiled several hundred documents for review at DIA headquarters and provided approximately 250 for use at the Select Subcommittee.

National Security Council (NSC)

The National Security Council (NSC) provided fewer than 30 documents for use at the Select Subcommittee. The staff was briefed on an additional 52 documents at the NSC. In addition, the Subcommittee was provided with a Bosnian Document List, however, no actual documents were attached.

White House - Intelligence Oversight Board (IOB)

The President's Intelligence Oversight Board (IOB) provided the Select Subcommittee with a list of individuals it reviewed in the course of its own investigation.²

United States Information Agency (USIA)

The United States Information Agency (USIA) provided the Select Subcommittee with copies of official calendars kept by Susan Hovanec, the Public Affairs Officer at the US Embassy in Zagreb, for 1994 and 1995. These calendars documented dates of important meetings between Hovanec and officials in the region, relevant to our investigation.

² See Chapter 7.

CHAPTER 6
ADMINISTRATION RECORD OF COOPERATION
WITH THE SELECT SUBCOMMITTEE

During the first days of its existence and throughout the investigation, the Select Subcommittee continuously sought the cooperation of various federal government agencies. In an effort to obtain all classified and unclassified information related to the United States role in Iranian arms transfers to Croatia and Bosnia, the Subcommittee requested the assistance of the White House, National Security Council, Intelligence Oversight Board, Central Intelligence Agency, Department of State, Department of Defense, Department of Justice, and Federal Bureau of Investigation. The rate and scope of administration cooperation, however, varied from full compliance from some agencies to almost complete non-compliance from others.

In April 1996, before the establishment of the Select Subcommittee, document requests relating to the Iranian "green light" policy had already been submitted to the Administration. Chairman Aden Specker and Vice Chairman Robert Kerry of the Senate Select Committee on Intelligence contacted the President's Intelligence Oversight Board, the National Security Council, and the Department of State requesting "any unpublished material bearing on this subject, such as cables, electronic correspondence, internal memoranda, minutes of meetings, letters, and memoranda to other agencies or talking points for briefings."¹ Additionally, Jesse Helms, Chairman of the Senate Foreign Relations Committee requested the President turn over "... all documents relating to the role that your Administration may have played in proposing, organizing, assisting, consulting, arranging, or agreeing to the transfer of arms by any government or private organization into the former Yugoslavia during the period in which the United Nations arms embargo was in effect."² Chairman Benjamin Gilman of the House International Relations

Committee, and Chairman Floyd Spence of the House Committee on National Security also submitted requests at this time, for similar information.³ President Clinton on May 15, 1996, insisted that the Administration would cooperate with Congress:

I have asked the relevant agencies . . . to work with you to ensure that the Committee obtains the information it needs on this matter.

I welcome this opportunity to present the policy my Administration has pursued to help bring peace to Bosnia. Let me assure you that my Administration will cooperate fully with the Committee and with other Congressional bodies in their examination of this matter.⁴

Because Congressional requests were made, and because the President directed his agencies to meet these requests, it is presumed that the Administration would have compiled all information relevant to the Iranian arms issue. When the Select Subcommittee later requested this information, however, the Administration needed until the end of September, five months after the original Congressional request, to gather all related materials. The Subcommittee notes, in particular, that the materials made available on September 27 by the Department of State were important documents, critical to the investigation of the US role in Iranian arms transfers. The Department was aware that it was providing access to documents only a week before the Subcommittee planned to finalize its report.

Agency Compliance

Central Intelligence Agency

The Central Intelligence Agency (CIA) was the most cooperative and willing of the Administration agencies in their efforts to provide the Select Subcommittee with requested

¹ Letter from Aden Specker, Chairman, and Robert Kerry, Vice Chairman, Senate Select Committee on Intelligence, to Warren Christopher (then-Secretary of State), Secretary of State (Apr. 9, 1996). See Appendix B.

² Letter from Jesse Helms (then-Senator "Helms"), Chairman, Senate Foreign Relations Committee, to President Bill Clinton (then-Senator "Clinton") (Apr. 16, 1996). See Appendix B.

³ Letter from Benjamin Gilman (then-Senator "Gilman"), Chairman, House International Relations Committee, to Christopher (May 2, 1996); Gilman to Anthony Lake (then-Senator "Lake"), National Security Advisor, (May 21, 1996); Floyd Spence, Chairman, National Security Committee, to William Perry, Secretary of Defense, (Apr. 15, 1996). See Appendix B.

⁴ Letter from Clinton to Helms (May 15, 1996). See Appendix B.

documents and other related material. Within days of the Subcommittee's inception, thousands of pages of cable traffic were made available at the CIA headquarters for review by a limited number of Select Subcommittee staff. The CIA also accommodated the Subcommittee in making their staff, including former Director of Central Intelligence James Woolsey, available for depositions and interviews, as requested.

In addition, the Agency also played a pivotal role in expediting the security clearance process for Select Subcommittee staff, which enabled the Subcommittee to complete its investigation during its six-month charter.

Department of Defense

The Department of Defense (DOD) was generally helpful in the production of requested documents. It was consistently effective in making Defense personnel available for depositions, as requested. The only exception to this remains an outstanding request for Secretary William Perry's appearance to provide information to the Select Subcommittee.

In addition, the Defense Department's Investigative Service and Security Directorate understood the Subcommittee's critical and immediate need to obtain security clearances, and were instrumental in expediting the processing of background investigations of the Subcommittee staff.

Federal Bureau of Investigation

On May 13, 1986, Chairman Hyde requested special agents be detailed from the Federal Bureau of Investigation (FBI) to the Select Subcommittee to assist with its investigation of the US role in Iranian arms transfers.⁴ The "October Surprise Task Force", in 1982, employed the services of seven agents detailed from three federal government investigative agencies, while the Select Subcommittee requested only three agents from the FBI. Additionally, unlike "October Surprise", the Select Subcommittee paid the salary and benefits of these agents, not the Federal Bureau of Investigation.

⁴ Letter from Henry J. Hyde (hereinafter "Hyde"), Chairman, Select Subcommittee to Investigate the United States Role in Iranian Arms Transfers to Croatia and Bosnia (hereinafter "Select Subcommittee"), to Louis Fresh, Director, Federal Bureau of Investigation (May 13, 1986). See Appendix B.

The Subcommittee worked jointly with the Department of Justice (DOJ) and the FBI to make the appropriate arrangements to secure their assistance.⁵ Both agencies were reluctant at first to provide investigators to the Sub committee. Part of the FBI's hesitancy could rightfully be attributed to the political fervor, at the time of the Subcommittee's request, surrounding the White House/FBI "Fulgate" affair.⁶ Nonetheless, on July 23, 1986, the Deputy Attorney General, Jamie Garlick, approved the detailing of three FBI agents to work as shared resources between the Majority and Minority staffs of the Select Subcommittee.

In an effort to ensure that the inquiry would be conducted in a bipartisan manner, Chief Counsel and Chief Minority Counsel agreed to a memorandum of understanding with respect to the utilization of the agents detailed to the Select Subcommittee.⁷ The memorandum provided that the investigators assigned would be a joint resource between the Majority and the Minority staffs. It was also agreed that, upon conducting an interview, the investigators would provide an interview report to both the Majority and Minority staffs.

Department of Justice

In addition to the Department of Justice's assistance in obtaining FBI agents for the Select Subcommittee, DOJ personnel were also helpful in securing spaces for depositions. The Office of Legislative Affairs, in particular, Alan Hoffman, was able to arrange secured areas to conduct depositions of Ambassadors Charles Redman and Richard Holbrooke in Chicago and New York, respectively. Likewise, the US Attorney's office was most accommodating in these requests.⁸

⁵ Memorandum of Understanding from Richard J. Pocker (hereinafter "Pocker"), Chief Counsel, Select Subcommittee and Richard Metzger (hereinafter "Metzger"), Minority Chief Counsel, Select Subcommittee, to Howard Shapiro, General Counsel, Federal Bureau of Investigation (Aug. 9, 1986). See Appendix B.

⁶ It was disclosed that the FBI was inappropriately used by political operatives in the White House. Over 700 files -- including background investigation materials -- were turned over to the Administration for no objective reason.

⁷ Memorandum of Understanding from Pocker to Metzger (July 24, 1986). See Appendix B.

⁸ Deputy Chief of Chicago's Criminal Division, Sergio E. Accia, and Chief of the Civil Division in New York, Jane Booth, were very cooperative and willing to assist the

Department of State

The Department of State (DOS) was generally slow to respond to the Select Subcommittee's document requests and reluctant to facilitate requested depositions and interviews. At the outset of the Subcommittee's investigation, the Department stated that it "remains committed to cooperating fully with the Select Subcommittee, with a view toward concluding this inquiry promptly."¹⁰ The State Department's actual performance fell well short of its assurance. Only days prior to the Subcommittee's drafting deadline and after the Subcommittee had met with all witnesses, did the Department of State provide important documents which were requested within the first month of the Subcommittee's existence.

The Select Subcommittee, on July 26, 1996, made an initial request to the Department of State for Ambassador Galbraith's compilation of memos which he maintained in his office in Zagreb as the "record" of the issues and events that he encountered as US Ambassador to Croatia. Also requested were the Ambassador's calendars, phone records, and travel vouchers. The Department at first characterized the record as being Ambassador Galbraith's personal document despite it having been typed by a government secretary, on a government computer, on government time.¹¹

On August 22, 1996, the State Department made available only selected (by State Department officials) portions of the record. Even then, the Subcommittee was not given copies of these materials, as requested, but rather was only allowed to review selected portions at the State Department, where no photocopying or verbatim note taking was permitted.¹² Not until September 18, 1996, were Chairman Hyde and Mr. Hamilton advised that Ambassador Galbraith's "record" would be made available, in its entirety, at the State Department. It was made available for review, however, solely to the chief counsels who could not remove any notes from the Department, nor discuss the contents of the over 150

Select Subcommittee staff.

¹⁰ Letter from Barbara Larkin (former staffer "Larkin"), Assistant Secretary, Legislative Affairs, Department of State, to Hyde (July 30, 1996). See Appendix B.

¹¹ Letter from Hyde and Lee Hamilton (former staffer "Hamilton"), Ranking Minority Member, Select Subcommittee, to Christopher (July 26, 1996). See Appendix B.

¹² Letter from Larkin to Hyde (Aug. 22, 1996). See Appendix B.

page document with anyone other than Chairman Hyde and Mr. Hamilton.¹³

Based on testimony received by various witnesses, the Select Subcommittee, on August 14, 1996, requested access to additional documents during staff travel to Embassy Zagreb. The requested documents included the chronological cable file of all cables sent to the State Department by Embassy Zagreb, as well as notes taken by Political Officer Richard Holtzapple during Galbraith's meetings. To alleviate costs, and the burdens of production upon the State Department, Select Subcommittee staff offered to review the previously requested phone records and travel voucher information while at Embassy Zagreb, and to simply make copies of only those portions the Subcommittee staff determined to be relevant to their inquiry. This offer would have saved the Department from making photocopies of the entire set of documents, and shipping those same items to the Select Subcommittee offices.¹⁴ Upon arrival in Zagreb, however, the Subcommittee staff was not permitted to view any documents and were told that it would be provided access to them only in Washington. Some of the documents were finally provided on September 18, 1996.¹⁵

As part of the staff delegation's inquiries, the Select Subcommittee asked the State Department to request, on its behalf, meetings with specified Croatian and Bosnian government officials and community leaders to discuss their knowledge of the United States' role in Iranian arms transfers.¹⁶ Due to the late notice from the State Department, Embassy Zagreb was only able to arrange one meeting. One hour prior to the staff's departure, the Subcommittee staff met with Croatian Muslim cleric Imam Sevro Ornebasic. Despite a renewed request,¹⁷ the State Department has never shared a copy of a diplomatic note or other Departmental correspondence showing Department efforts to arrange the requested meetings with foreign officials.

¹³ Letter from Larkin to Hyde (Sept. 17, 1996). See Appendix B.

¹⁴ Letter from Hyde and Hamilton to Christopher (Aug. 14, 1996). See Appendix B.

¹⁵ Letter from Larkin to Hyde (Sept. 17, 1996). See Appendix B.

¹⁶ Letter from Hyde to Christopher (Aug. 12, 1996); letter from Hyde and Hamilton to Christopher (Sept. 5, 1996). See Appendix B.

¹⁷ Letter from Hyde and Hamilton to Christopher (September 5, 1996). See Appendix B.

Subsequent document requests, made in early and mid-August, were also not responded to until September, including requests to turn over the approximately 30 spiral notebooks that former Deputy Assistant Secretary for European Affairs, Alexander Vershbow kept during his tenure with the State Department. The morning of Vershbow's deposition, the Select Subcommittee staff was informed that Vershbow made available some of his handwritten notes, which were taken contemporaneously with events being investigated by the Subcommittee. That same day, Chairman Hyde submitted a document request to the State Department requesting production of all of Vershbow's notes, not just those the State Department decided the Subcommittee should review.¹⁸ More than one month later, the State Department provided only portions of the materials to Hyde and Hamilton, and even fewer sections for review by Subcommittee staff.

The integrity of the Subcommittee's investigation and report rests upon the assurance that all materials it has determined relevant, have been turned over. The Subcommittee could not entrust the truth-seeking process to the Department and individuals who have a stake in the outcome. As with any oversight investigation, it should be the oversight body that makes the determination of relevant material, not the agency at the heart of the investigation.

With respect to requests for depositions, on August 1, 1996, the Select Subcommittee sent letters requesting the State Department make Deputy Secretary of State Strobe Talbot and Undersecretary for Political Affairs Peter Tarnoff available for staff depositions.¹⁹ Subcommittee Staff was advised that the Department's legal section was reviewing the resolution creating the Subcommittee to determine if the Select Subcommittee had the authority to take staff depositions of "principals." It was asserted that the "principals" were Secretary of State Warren Christopher, Deputy Secretary of State Talbot, and Undersecretary for Political Affairs Tarnoff. Moreover, it was also asserted that the issue of whether the State Department would even allow "principals" to sit for staff depositions was at the same time separate from whether the Select Subcommittee enjoyed the authority to conduct such proceedings.²⁰

¹⁸ Letter from Hyde to Christopher (Aug. 12, 1996). See Appendix B.

¹⁹ Letters from Pecker and Melzer to Christopher (Aug. 1, 1996). See Appendix B.

²⁰ Letter from Hyde to Christopher (Aug. 26, 1996); letter from Patrick B. Murray (hereinafter "Murray"), Deputy Chief Counsel, Select Subcommittee, to Michael Kosson, Deputy Assistant Secretary, Legislative Affairs, US Department of State (Aug.

The State Department's refusal of the Select Subcommittee's request to have Talbot and Tarnoff sit for the requested depositions could not be based upon any legal principle. House Resolution 416 unambiguously authorized such depositions and authorized the Chairman to issue a subpoena compelling the appearance of any individual for such depositions. In the interest of time, the Subcommittee agreed to the State Department's August 28 proposal that Talbot and Tarnoff meet with Chairman Hyde, Mr. Hamilton, and Select Subcommittee staff for a one hour informal unsworn interview.²¹ At the interview both Talbot and Tarnoff agreed to provide their testimony under oath and did so.

Additionally, the State Department did not honor the Subcommittee's request²² to meet with Secretary Christopher. On September 26, the Department informed the Select Subcommittee that the Secretary's schedule did not permit him to accommodate the request.²³

The White House - National Security Council

The National Security Council (NSC) made only 22 documents available to the Select Subcommittee staff out of approximately 63,000 pages of documents that turned up in response to its initial search request and review. Many of these documents are classified as "Top Secret." There were another 75 documents that the NSC agreed to brief only Members, with staff present. Those documents could neither be copied, nor read by Subcommittee staff.

The Select Subcommittee also requested the NSC make available its personnel for depositions. National Security Advisor Anthony Lake and US Ambassador to the Czech Republic Jerrold Walker (who had been on the NSC during the green light decision), were asked to testify due to their direct role in providing instructions to US Ambassador to Croatia Peter Galbraith regarding the US response to Croatian President Franjo Tudjman's request for a US position on Iranian arms transfers. Deputy National Security Advisor

6, 1996). See Appendix B.

²¹ Letter from Larkin to Hyde (Aug. 29, 1996). See Appendix B.

²² Letter from Hyde and Hamilton to Christopher (Sept. 24, 1996). See Appendix B.

²³ Letter from Larkin to Hyde (Sept. 26, 1996). See Appendix B.

Samuel Berger's deposition was requested because of statements attributed to him by Alexander Vershbow, former Deputy Assistant Secretary for European Affairs. With respect to Vershbow, he was integral to the formulation of the policy change while he was at the State Department in late April and early May of 1994. In June 1994, he moved to the NSC, where he continued to follow this issue. Based on NSC documents there was also reason to interview him regarding his actions and knowledge after the "no instructions" policy had been articulated to the Croatian government.²⁴

The NSC witnesses from whom depositions were requested were determined based on a number of factors, including how central his or her role was in the conveyance of the Iranian green light decision. Disturbing questions of credibility needed to be resolved, as well as issues of whether the President was fully informed of the intelligence on this matter or on the risks inherent in making the decision to let Iran send weapons into Croatia and Bosnia. These issues were particularly difficult to ascertain, due to the "deliberative process" veil of executive privilege the Administration cast over this information.

On August 14, 1996, the Counsel to the President, Jack Quinn, responded to the Select Subcommittee's request to take the depositions of Lake, Berger, Walker, and Vershbow. The White House asserted the position that neither current nor former NSC staff would be allowed to sit for staff depositions, because to do so would intrude upon the President's "deliberative process."²⁵

The White House described the President's "deliberative process" on July 23, 1996, as matters pertaining to confidential communications to and from the President, Presidential meetings with foreign heads of state, and the content and deliberations of that their questioning would not intrude upon these areas. The Select Subcommittee made it clear that their questioning would not intrude upon these areas. The Subcommittee's interest was to establish facts regarding these individuals' actions implementing and transmitting the policy, not to delve into their deliberative discussions with the President. The Subcommittee understands the necessity of preserving the President's ability to seek frank and honest discussion of views from his staff, in order for him to undertake his obligations

appropriately.²⁶

Due to the NSC's lack of cooperation, the Select Subcommittee began preparation of subpoenas to compel the production of sworn depositions of Lake, Berger, and Vershbow. To avoid issuance of the subpoenas, the White House Counsel met with Chairman Hyde and Subcommittee staff on September 17, 1996. The Counsel explained that "executive privilege is as much a process as it is a privilege." Thus, there was no difficulty for the NSC and the White House to produce these senior government officials for an interview to discuss their role in the execution of the Iranian arms pipeline policy decision so long as it was merely an "interview" format. The Counsel argued that, in the view of the White House, an oath and a transcript alter the nature of a meeting, because those terms are "indicia of a hearing." He admitted, however, that there is a well-recognized exception to executive privilege whenever there are "credible allegations of criminal wrongdoing." Additionally, the White House required the presence of a Member of Congress during the interviews with "principals" Lake and Berger.²⁷

The White House continued to refuse, however, to permit Leon Fuerth, Assistant to the Vice President for National Security Affairs, to appear for a deposition, as requested by the Select Subcommittee.²⁸ Rather, Fuerth was made available to brief only Chairman Hyde and Mr. Hamilton on issues not touching upon the deliberative process.²⁹

To resolve the impasse, and to facilitate the fact-gathering process within the Select Subcommittee's very limited time frame, Chairman Hyde accommodated the White House's prerogative on this issue and agreed to non-sworn interviews. For the record, it was made clear that if the Select Subcommittee was dissatisfied with the conduct of these interviews, it had not waived its prerogative to issue and serve subpoenas compelling the public servants' appearances for sworn depositions.

The Subcommittee is adamant, however, that there is no basis in law for staff of the NSC to refuse to appear before authorized Congressional subcommittees and give sworn testimony demanded by a valid subpoena on matters pertinent to the legislative inquiry.

²⁴ Letter from Hyde to Christopher (Aug. 15, 1996); letters from Pocker to Lake (July 31, 1996). See Appendix B.

²⁵ Letter from Jack Quinn (hereinafter "Quinn"), Counsel to the President, to Hyde (Aug. 14, 1996). See Appendix B.

²⁶ Murray notes from NSC meeting (July 23, 1996).

²⁷ Murray notes from Hyde-Quinn meeting (Sept. 17, 1996).

²⁸ Letter from Pocker and Metzger to Quinn (Aug. 2, 1996). See Appendix B.

²⁹ Letter from Quinn to Hyde (Aug. 14, 1996). See Appendix B.

Congress "is entitled to have" a witness under subpoena give nonprivileged "testimony pertinent to the inquiry. . . before the [authorized] committee."³⁰ The interest of the Executive Branch in preserving the confidentiality of privileged material is fully protected by appearing in response to the subpoena but asserting privilege in the event the witness is asked questions which call for privileged material.³¹ To the extent NSC staff believe that questions or document requests propounded by the Subcommittee through its staff call for privileged material, the NSC may invoke such privileges through the proper procedural mechanism. Short of making a specific claim of privilege, however, NSC staff cannot lay claim to any immunity from the obligation to give sworn testimony in response to a valid subpoena for pertinent information. Such refusal to appear and be placed under oath in response to such a subpoena would be grounds for a citation for contempt of Congress.³²

The NSC staff cannot claim or be granted immunity from answering subpoenas. First, the White House's assertion that its policy of not appearing for depositions has been a long-standing tradition of the NSC is incorrect. Former NSC aide Oliver North involuntarily testified before Congress.³³ NSC aide David Wigg testified before a federal grand jury.³⁴ National Security Advisor Zbigniew Brzezinski and two former NSC staff members were called as witnesses before a Senate investigative subcommittee,³⁵ and the House Ethics Committee subpoenaed Lawrence Eagleburger, Brent Scowcroft and Robert Hyland, all of whom were NSC staff.³⁶

³⁰ *McGrain v. Daugherty*, 273 U.S. 135, 180 (1927) (hereinafter "McGrain").

³¹ 2 Opinion of the Office of Legal Counsel 197 (Sept. 6, 1978), 1978 O.L.C. Lette 50, at 205.

³² *McGrain* at 180.

³³ *United States v. North*, 901 F.2d 843, 851 (D.C. Cir.) (per curiam), on rehearing, 820 F.2d 940 (D.C. Cir. 1989) (per curiam), cert. denied, 500 U.S. 541 (1991).

³⁴ G. Lardner, *Wallach, Saught \$1 Million, Means, ANY Asked Client to Support Washington, Essence*, on Pipeline, *Washington Post*, Mar. 6, 1988.

³⁵ G. Lardner, *Billy Brubaker to Question A Carter Aide*, *Washington Post*, Sept. 16, 1980, at A12.

³⁶ C. Babcock & S. Armstrong, *Ethics Committee to Call 4 Officials; Committee to Call 4 in S. Korean Probe, Subpoenaes Voted in Investigation of S. Korean Gifts*.

The Administration's argument that these precedents are distinguishable in that they involved investigations into violations of federal criminal laws whereas the Select Subcommittee's investigation is essentially a matter of oversight, is spurious. The Supreme Court has not limited the power of investigation to cases involving allegations of criminal misconduct, nor has the Court accorded less weight to the congressional interest in oversight as compared to investigating crimes. To the contrary, the Supreme Court has held that the congressional investigatory power "encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes." In addition to probes into departments of the Federal Government to expose corruption, inefficiency or waste.³⁷

Second, no official within the Executive Branch of government -- not even the President himself -- enjoys blanket immunity from the obligation to comply with valid subpoenas. . . . The President lacks blanket immunity from the subpoena power. It follows, a fortiori, that NSC staff lack such immunity.³⁸ There is an obligation to testify in appropriate instances that applies equally to all federal officials and that derives specifically from the right of Congress to oversee the faithful execution of the laws by the President and his administration.³⁹ Although a number of recognized privileges, such as executive privilege may shield an official from answering some or all congressional questions if they fail to meet the standard of "right to know," there is no basis for a constitutional doctrine that some officials need not even appear to hear the legislators' questions because they are wrapped in privilege as to every aspect of their knowledge or activity.⁴⁰

Moreover, according to the Supreme Court:

A legislative body cannot legislate wisely or effectively in the absence of information . . . and where the legislative body does not itself possess the requisite information -- which not infrequently is true -- recourse must be had

Washington Post, June 9, 1977, at A1.

³⁷ *Wattles v. United States*, 354 U.S. 178, 187 (1957).

³⁸ *Ci. Nixon v. Fitzgerald*, 457 U.S. 731, 750 (1982) ("The President's unique status under the Constitution distinguishes him from other executive officials.")

³⁹ *Frank, Comment: The Constitutional and Legal Position of the National Security Advisor and Deputy Advisor*, 74 Am. J. Int'l L. 634, 637 (1980).

⁴⁰ *Id.* at 636 (citing *United States v. Nixon*, 418 U.S. 683 (1974)).

to others who do possess it. Experience has taught that mere requests for such information which is volunteered is not always accurate and complete; so some means of compulsion are essential to obtain what is needed.⁴¹

In short, the Supreme Court has ruled that "[t]he power of inquiry -- with process to enforce it -- is an essential and appropriate auxiliary to the legislative function,"⁴² and "is inherent in the power to make laws."⁴³

The President's Intelligence Oversight Board

In order to do as thorough a job as possible investigating the Iranian green light, the Subcommittee attempted to review previous efforts. Principal among them was the investigation undertaken by the President's Intelligence Oversight Board (IOB) in 1995. The IOB investigation had been undertaken at the direction of White House Counsel Abner Mikva, and it was upon its findings that the White House Counsel reached his legal conclusions. Accordingly, on July 26, 1996, Chairman Hyde requested a copy of the IOB's report to the President on the Iranian arms matter. The Subcommittee also requested a list of names of the individuals interviewed by the IOB during the course of its investigation and any memoranda of those interviews.⁴⁴

On August 5, 1996, Anthony Harrington, Chairman of the IOB, rejected the request for these documents.⁴⁵ In their discussions with the Subcommittee, the White House and IOB never asserted privilege, either executive or attorney-client. Their argument was simply that disclosure of the report and the underlying documents would "do violence" to the IOB's ability to obtain a truthful and complete accounting of events from government officials. The IOB was unable to answer the Subcommittee's question of why the IOB's public release, a few months earlier, of its findings on its investigation of intelligence activities in Guatemala under the Reagan and Bush Administrations, had not done more

⁴¹ *McCain* at 175.

⁴² *Id.* at 174.

⁴³ *Eastland v. United States Secretaries of Labor*, 421 U.S. 491, 504 (1975).

⁴⁴ Letters from Hyde to Anthony S. Harrington (Perseus/Harrington), Chairman, Intelligence Oversight Board (July 26, 1996 and Aug. 13, 1996); letter from Hyde and Hamilton to Lake (July 26, 1996). See Appendix B.

⁴⁵ Letter from Harrington to Hyde (Aug. 5, 1996). See Appendix B.

"damage" than sharing the Iranian green light findings with Congress behind closed doors. The IOB did argue that the public release of the Guatemala findings was necessary due to the confused state of the record on the matter.⁴⁶ That may very well have been the case, but the Subcommittee notes that the same confusion reigns in the Iranian green light issue.

After much negotiation the White House did eventually relent to providing the Subcommittee with a written list of the individuals the IOB interviewed in the preparation of its Iranian green light report.⁴⁷

On the issue of testifying before the Subcommittee under oath and on the record, Harrington, similar to the NSC staff, also refused, on advice from the White House. The information he provided to the Subcommittee was through an unsworn interview, without a court reporter present to make a verbatim transcript.

The Subcommittee strongly believes that, in this case, the Administration's refusal to give Congress access to the IOB report has actually done real damage to the integrity of the IOB's investigatory process. Based upon the information the White House has provided from the report, the Subcommittee concludes that at least two individuals interviewed by the IOB withheld relevant documentary information and some may have provided contradictory statements to the IOB and Congress. These individuals are, however, now safe in the knowledge that it is impossible to document these actions because of the IOB's claim of "privilege."

Finally, the Select Subcommittee is concerned that the Administration has publicly cited this IOB report to exonerate the Administration of wrong doing in the Iranian green light policy, but refuses to allow Congress to examine the report or to allow its author to testify under oath about it so as to allow the Subcommittee to verify its accuracy or authority. Democratic Senator Robert Kerrey has expressed similar concerns:

I think the entity . . . is very badly named as an oversight board, and cannot, under any circumstances, vindicate the President. If there is a claim of oversight -- if there is a claim of Executive Privilege and a claim of vindication simultaneously, one of those two has to fall.

⁴⁶ Select Subcommittee Interview with Anthony Harrington (Perseus/Harrington Int'l.), July 25, 1996, at 7.

⁴⁷ Letter from Harrington to Hyde (Sept. 20, 1996). See Appendix B.

Let me isolate two mistakes. One is in implying because it has a name -- Oversight Board -- that it is an oversight board. It's not.

[There's been some references that the President was vindicated by an oversight board, and that leaves an impression with the citizen that this is different than what I think this organization is.

The second mistake was sending Mr. Harrington to the Hill at all. I mean, I really think he should not have been sent up to Capitol Hill to sit before this Committee with a report that he would read but not be able to leave with the Committee.⁴⁴

Subpoenas

Unlike some of the other Congressional examinations of the Iranian green light, the Select Subcommittee enjoys a broad mandate as chartered out in House Resolution 416. In order to conduct an authentic oversight investigation, H. Res. 416 bestowed upon the Chairman of the Select Subcommittee, "upon consultation with the ranking minority party member of the Select Subcommittee," the authority to take "affidavits and depositions pursuant to notice or subpoena." Authorized subpoenas may be signed by the Chairman of the Select Subcommittee. Furthermore, the resolution provided that such depositions and affidavits could be conducted by staff as "designated by the chairman of the Select Subcommittee."⁴⁵

The Subcommittee considered the issuance of subpoenas on several occasions, sometimes to the extent of having them prepared for service; once to get the White House to comply with requests for NSC documents and depositions; twice to get the White House to produce IOB materials; and twice to compel the Secretary of State to produce requested documents. On each occasion the issuance was avoided by either the publication of the Executive Branch or by Chairman Hyde's negotiating a compromise whereby the Select Subcommittee could get access to critically required information without undermining either the Select Subcommittee's rights to do legitimate oversight or the Executive Branch's asserted privileges. Throughout the process, considering the very limited time made

⁴⁴ Hearing on LIS Actions Regarding Iranian Arms Shipments Into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. (May 28, 1996) (statement of Vice Chairman Robert Kerrey).

⁴⁵ House Resolution 416, 104th Cong. (1995). See Appendix B.

available for it to do its work, the Subcommittee has preferred to compromise in order to do as complete a job as possible rather than join in divisive and counterproductive public battles with the Administration.

Classification

The Select Subcommittee on July 26, 1996,⁴⁶ asked the State Department to declassify Ambassador Galbraith's two reporting cables (Zagreb 1683 and Zagreb 1721), dated April 27 and 28, 1994, as well as a memorandum to the file he prepared, dated May 6, 1994.⁴⁷ These documents are absolutely key to any coherent discussion of the genesis and implementation of the green light policy. They were prepared contemporaneously with key developments and can be used in verifying the accuracy of testimony. The matters discussed in these documents, excepting a few brief phrases, are not diplomatically sensitive and their public disclosure would not compromise national security or intelligence information or technique. Additionally the substance of large portions of these documents has been testified to in public testimony before various Congressional committees by Ambassadors Galbraith and Redman, Undersecretary Farnoff, and Deputy Secretary Talbot, with noticeable omissions of inconvenient facts and with a "spin" not substantiated in the documents. Nonetheless, after over one month of deliberations and several missed deadlines, the Department of State finally decided not to declassify any part of the two cables and only declassified approximately one-half of the memorandum to the file.⁴⁸

Clearly demonstrating the Administration's efforts to hide its actions behind the shroud of classification is the fact that several sentences and phrases were redacted from the memorandum that were clearly unclassified, but which would have been embarrassing to the Administration if they were known. For example, characterizations by a senior Department of State official of Washington's inept and confused handling of the initial request from the Croatsians about Iranian arms transshipments.

Based upon the highly unsatisfactory response, Chairman Hyde wrote letters to the

⁴⁶ Letter from Hyde, Hamtton and Gilman to Christopher (July 26, 1996). See Appendix B.

⁴⁷ These are some of the documents that the State Department refused to allow the Subcommittee to have in its possession. Accordingly, they are currently available only at the Department and cannot be included in this report's appendices.

⁴⁸ A copy of the redacted document is included in Appendix B.

Information Security Oversight Office and the Interagency Security Classification Appeals Panel on September 26, 1996⁴⁸ reporting the Department of State's apparent violation of the Clinton Administration's own Executive Order 12958, in which are laid out the proper uses of classification. Specifically, the Department appears to be in violation of the Order's forbidding the classification of information to "prevent embarrassment to a person, organization, or agency."⁴⁹ Chairman Hyde advised the House of his action in a floor statement on September 26, 1996.⁵⁰ The Subcommittee heard telephonically from the Information Security Oversight on October 2, that an investigation is underway.⁵¹

More recently, the Department of State refused the Subcommittee's request that it declassify portions of the contemporaneous notes kept by former State Department official Alexander Vassilov. The Subcommittee agrees that those portions that reference confidential discussions with foreign heads of state are legitimately classified. It is, however, unconscionable to refuse, as the Administration has, to declassify those portions of the notes that detail conversations between US government officials on the execution of what is now a publicly revealed policy.

CHAPTER 7 INVESTIGATION BY THE INTELLIGENCE OVERSIGHT BOARD (IOB)

Origins of the IOB Investigation

In the fall of 1994, based upon a variety of intelligence reports from several sources, and operational messages from [redacted] and elsewhere, Director of Central Intelligence (DCI) James Woolsey, became alarmed that members of the Clinton Administration may have been involved in an illegal covert action. He was concerned that an improper and unauthorized diplomatic activity was occurring, which was helping Iran circumvent the UN arms embargo in the Balkans.¹

As Woolsey examined the information that had been compiled for him,² he realized the situation under review was related to a matter he had first become aware of in early May 1994. In the current case, as before, there were strong indications that something was afoot in the implementation of the US policy enforcing the Bosnian arms embargo as interpreted in the US Embassy in Zagreb, Croatia. Woolsey quickly decided to seek guidance and advice from National Security Advisor Anthony Lake. That meeting occurred on October 5, 1994.³

During that meeting, Woolsey shared with Lake the information he had indicating a possible US role in facilitating or acquiescing in the Iranian shipment of weapons to Bosnia by way of Croatia.⁴ As a result of that meeting, on October 14, National Security Council (NSC) officials, including Senior Director of Intelligence Programs George Tenet

¹ Letter from Hyde to Steven Garfinkel (hereinafter "Garfinkel"), Director, Information Security Oversight, National Archives (Sept. 26, 1996); letter from Hyde to Roselyn Mazer, Chief, Interagency Security Classification Appeals Panel, US Department of Justice (Sept. 26, 1996). See Appendix B.

² Executive Order 12958, Section 1.8 (2).

³ 142 Cong. Record H11390 (No. 135 Sept. 26, 1996) (Statements of Hyde).

⁴ Letter from Garfinkel to Hyde (Oct. 1, 1996). See Appendix B.

¹ Select Subcommittee Deposition of James Woolsey, Sept. 13, 1998, at 28. (hereinafter "Woolsey Dep.").

² CIA Memorandum by [redacted] "Talking Points for the DCI's Weekly Meetings" (Sept. 30, 1994).

³ NSC document, 30, Nov. 16, 1994; CIA Memorandum by [redacted] "Talking Points for the DCI's Weekly Meetings" (Sept. 30, 1994); CIA Memorandum for the Record [redacted] (Oct. 14, 1994).

⁴ CIA Memorandum for the Record [redacted] (Oct. 14, 1994); Woolsey Dep. at 53-54.

and Deputy Legal Advisor James Baker,⁵ met with officials from the CIA to undertake a preliminary investigation and to obtain copies of relevant documents.⁶

On November 1, 1994, NSC Legal Advisor Alan Kreszko met with White House Counsel Abner Mikva to discuss the issues raised at the Woodsey-Lake meeting.⁷ At about the same time, Mikva met with Lake and White House Chief of Staff Leon Panetta for the same reason.⁸

In response to some of the legal issues raised in its preliminary investigation, Baker wrote a legal memorandum analyzing the issues presented. That memorandum for the record was dated November 7, 1994. According to oral, unsworn statements by NSC staff, that memo attempts to clarify the distinction between covert activities and diplomatic activities.⁹

On November 29, Mikva met with Anthony Harrington, Chairman of the President's Intelligence Oversight Board.¹⁰ The two men discussed the question of US complicity in

⁵ Not to be confused with former Secretary of State James A. Baker, III.

⁶ Handwritten list of attendees at October 14, 1994, meeting with George Tenet at CIA headquarters, CIA document label 94-339, Oct. 14, 1994; CIA Memorandum by [redacted] Memorandum on Passage of Operational File to NSC George Tenet, CIA Case, [redacted] Oct. 15, 1994; CIA Memorandum by [redacted] Telephone Call to George Tenet (Oct. 17, 1994); CIA Memorandum for the Record Meeting with George Tenet from NSC re Croatian Issues (Oct. 14, 1994).

⁷ NSC document, 29, Nov. 16, 1994.

⁸ Select Subcommittee Interview of Anthony S. Harrington, July 25, 1996, at 1 (hereinafter "Harrington Int.").

⁹ NSC document, 34, Nov. 16, 1994.

¹⁰ The IOB was first established by President Ford in 1978. Since then, the IOB has had specific White House oversight responsibilities for intelligence activities. President Clinton established the current IOB in 1993, pursuant to Executive Order 12863. Under that Executive Order, the IOB is charged with preparing reports of intelligence activities the IOB believes may be unlawful or contrary to executive order or presidential directive. See Executive Order 12863. The IOB is directed to refer reports to the Attorney General if wrongdoing is believed to have occurred.

the Iranian circumvention of the UN arms embargo. During this meeting, the IOB was assigned the task of investigating the arms embargo violations issues presented by the US actions in the Balkans.

The IOB's investigative mandate was framed very narrowly by White House Counsel Mikva. The IOB's directive was narrower in scope than the Select Subcommittee's charter, as found in H. Res. 415. The issues before the IOB were:

1. Whether Ambassador Galbraith or Ambassador Redman was directly involved in assisting an arms shipment pass through Croatia to Bosnia in May 1994, in violation of the UN Arms Embargo.
2. Whether the "no instructions" message to Croatian President Franjo Tudjman by Ambassadors Galbraith and Redman constituted illegal covert activity; and
3. Whether Ambassador Galbraith and Assistant Secretary of State for European and Canadian Affairs, Richard Holbrooke, made any offers to provide arms or funds to the Bosnian or Croatian Governments.¹¹

Conduct of the IOB Investigation

The IOB conducted its investigation by reviewing the intelligence and operational information underlying the initial concerns of the DCI. The IOB also reviewed additional intelligence that was made available from other non-CIA sources. Several current and former US government officials were interviewed by the IOB. Captain David Wesley (USAF) of the IOB staff was assigned to work with the IOB members in the investigation and the preparation of the report.

Anthony S. Harrington is the current Chairman of the IOB. He is a senior partner at the Washington, D.C. law firm of Hogan and Hartson. Prior to his service with the IOB, Mr. Harrington served as General Counsel to the Clinton-Gore 1992 presidential campaign.

Mr. Harrington's fellow Board members included former Deputy Director of the National Security Agency Ann Caracless and Philadelphia businessman Harold W. Pote.

¹¹ Harrington Int. at 1-3.

The individuals interviewed by the IOB were:

Department of State

Warren Christopher, Secretary
 Peter Tarnoff, Under Secretary/Policy
 Richard Holbrooke, Assistant Secretary for European Affairs
 Charles Redman, Special Envoy to the former Yugoslavia
 Peter Galbraith, Ambassador to the Republic of Croatia
 Ronald Neitzke, Deputy Chief of Mission, Zagreb, Croatia
 Jernome Walker, Ambassador to the Czech Republic (former Senior Director for European Affairs at the NSC)

National Security Council

Anthony Lake, National Security Advisor
 Alexander Vershbow, Senior Director for European Affairs (former
 Principal Deputy Assistant Secretary of State for European and
 Canadian Affairs)

Department of Defense

Walter Slopcombe, Undersecretary for Policy
 General Wesley Clark, Commander in Chief, US Southern Command (former
 Director of the Office for Strategic Policy and Planning, Joint Chiefs)
 Major General Ed Harton, US Marine Corps HQ
 Lieutenant Colonel Richard Henck, former Defense Attache, Zagreb, Croatia
 Colonel John Serlter, current Defense Attache, Zagreb, Croatia
 Colonel Clifton Schroeder, US Marine Corps Reserve, European Command
 LNO, Sarajevo, Bosnia-Herzegovina
 Colonel David Hunt, US Army, Sarajevo, Bosnia-Herzegovina

Central Intelligence Agency

R. James Woolsey, former Director of Central Intelligence
 Admiral William Sturgisman, former Deputy Director of Central Intelligence
 [redacted] Chief of Interagency Balkan Task Force
 Theodore Price, former Deputy Director of Operations
 Douglas MacEachin, former Deputy Director for Intelligence
 [redacted]

Harrington stated that the interview process was very informal. The IOB interviews were not conducted under oath. None of the individuals interviewed were informed of the applicability of Title 18, United States Code, § 1001, which makes it a crime to provide a material false statement during the course of an investigation conducted by an agency of the Executive branch. Harrington also stated that no verbatim text of any of the interviews exist. The only memorialization of the interviews would be the notes taken by the interviewer.¹³

The IOB concluded its investigation by mid-May 1995. White House Counsel Mikva, presented the IOB's report to the President on May 17, 1995.¹⁴

Findings of the IOB Investigation

The IOB reached the following factual conclusions, which are addressed, *seriatim*:

The IOB review found that Ambassador Galbraith did not take any action to facilitate or direct the release of a Bosnia-bound convoy that had been stopped in Croatia in early May 1994. The IOB did find, however, that it had been provided conflicting information regarding the role of Ambassador Redman with respect to this particular convoy. CIA officials stated that the Bosnians asked Redman to help obtain the release of the convoy during negotiations in Vienna on the future of the Bosnian Federation. The IOB, however, deemed Ambassador Redman's conduct as "diplomatic discussions," insofar as he simply removed an impediment to negotiations that had arisen due to the stoppage of the convoy.¹⁵ A [redacted] official working with Ambassador Redman in Vienna stated that Redman had been advised of the problem by the Bosnians and may have taken steps to get it released because the issue was not raised again in the negotiations. Ambassador Redman stated, however, that he had taken no action obtaining the release of this particular convoy. The IOB further found that even if Redman had taken action, the IOB

¹² List of IOB interviewees, Select Subcommittee Doc. 000003, Sept. 20, 1996.

¹³ Harrington Int. at 6.

¹⁴ NSC document, 39, July 28, 1995.

¹⁵ Harrington Int. at 2.

did not believe he was aware that the convoy contained weapons.¹⁶ For this issue, based on the factual conclusions made by the IOB, White House Counsel decided that Ambassador Galbraith's and Ambassador Redman's actions did not fall within the definition of covert activity.

With respect to the second issue, the IOB concluded that Ambassador Galbraith's and Redman's statements to Croatian President Franjo Tudjman were consistent with the "no instructions" policy approved by Washington. Additionally, the IOB found that Galbraith had been instructed not to report back, in writing, the result of his communications with the Croatian President.¹⁷ The decision not to document the communication between the Ambassadors and the Croatian Government was beyond the scope of the IOB's investigative mandate.¹⁸

The White House Counsel reached the legal conclusion on this issue that in delivering the "no instructions" message, Galbraith and Redman were following their instructions properly and had not engaged in covert action.¹⁹

With respect to the third issue, the IOB was unable to reach a conclusion as to exactly what had been discussed by Ambassadors Galbraith and Holbrooke with Bosnian and Croatian government officials. In the fall of 1994, the IOB was unable to disprove covert action proposals with foreign officials. However, the panel believed these discussions probably involved little more than contingency plans in the event the embargo was lifted.²⁰ The IOB found no evidence that actual promises of funds or weapons were made by the US officials.²¹

Mikva concluded that legally these conversations were nothing more than

¹⁶ Id.
¹⁷ Id. at 3.
¹⁸ Id. at 3.
¹⁹ Id. at 2.
²⁰ Id. at 4-5.
²¹ Id. at 5.

hypothetical discussions or items under consideration among the parties to the negotiations. Because nothing concrete was promised, White House Counsel found that no covert action occurred as a result of these discussions.²²

Limitations of the IOB Report

Despite the generally favorable findings set forth above, the White House, as discussed in Chapter 6, refused to make the IOB report available to the Subcommittee for its review. The White House insisted that it only provide an oral briefing on the report without a verbatim transcript. The White House also refused the Subcommittee's request to review the documentation compiled in the preparation of the IOB report, such as the notes of interviews. Accordingly, the Subcommittee can judge the IOB report based only on the information it has been provided.

That said, it is evident that the IOB investigation cannot be looked to for authoritative answers to many of the questions relating to the Iranian green light policy that have been put before the Subcommittee. In addition to the IOB's scope of inquiry being extremely narrow, the report was prepared without benefit of interviews of key participants in the events in question. Similarly, some of the individuals interviewed did not provide the IOB with access to relevant materials and, it appears, some of those interviewed did not respond truthfully or completely. The IOB investigation appears to have been less than thorough and insufficient to support the conclusions reached.

First, the Subcommittee notes that the IOB never interviewed Deputy Secretary of State Strode Talbot nor Deputy National Security Advisor Samuel ("Sandy") Berger²³ about their participation in the implementation of the President's Iranian green light decision.

In Chapter 8, we explain how these two individuals were in key positions during the period in question. It is sufficient here to note that Talbot, the second highest State Department official in the Administration, and the highest ranking State Department official in the United States at the time the decision was made,²⁴ was traveling with the President

²² Id.
²³ See IOB List of Witnesses, supra note 12. Cf. Select Subcommittee List of Depositions and Interviews, See Chapter 5.
²⁴ Select Subcommittee Deposition of Thomas Donlon, Sept. 12, 1996, at 8-15. Secretary Christopher was traveling in Egypt.

when the green light issue was forwarded to the President.²⁵ Meanwhile, Berger had been in charge of the NSC, National Security Advisor Lake was traveling with the President.

Harrington has explained that the IOB was not concerned with how the policy was formulated, but rather with the narrow questions of whether the policy was properly implemented and whether the actions of any US government officials violated US law.²⁶ Key to the first question, however, is understanding what exactly the policy was that Ambassador Galbraith and other US diplomats were to have carried out. To do that, it is then by the President and how they expected it to be implemented. The IOB's failure to interview these two key participants in the policy process seriously limits the value of IOB investigation.

Second, the Select Subcommittee questions the degree to which individuals interviewed by the IOB were honest and forthcoming. Although the White House refuses to disclose any statements of the IOB witnesses to the Select Subcommittee for review, the IOB Chairman has stated that the IOB found no reason to make any criminal referrals to the Justice Department based upon probable false statements made during the course of the IOB's investigation. This leads the Subcommittee to surmise that the witnesses to the IOB investigation gave statements, which contradict their testimony before the Select Subcommittee, or the IOB is somehow unaware of significant factual inconsistencies in various witnesses' statements that have emerged in the Select Subcommittee's investigation. One example, of many, which are developed in the following chapters, pertains to the clear and material contradictions of several witnesses in the purported transcript of the "no instructions" policy from Anthony Lake with a raised eyebrow and a smile.²⁷ The differences in the testimonies allows one to interpret the Administration's policy as being strictly "no instructions. Period,"²⁸ as Anthony Lake put it, or "a wink and a nod" as stated by Ambassador Galbraith.

²⁵ Select Subcommittee Deposition of Strobe Talbot, Sept. 5, 1996, at 30; Select Subcommittee Interview of Samuel Berger, Sept. 26, 1996, at 1.

²⁶ Harrington Int. at 1 (scope of IOB inquiry narrower than Select Subcommittee's), 2 ("... [t]he IOB review was primarily concerned with determining if the actions involving US officials would have fallen within the definition of 'covert activity', 6 ("... [t]he IOB does not investigate policy.");

²⁷ Select Subcommittee Interview of Anthony Lake, Sept. 26, 1996, at 2.

Finally, it has emerged that some of the individuals whom the IOB interviewed, did not provide the IOB with highly relevant and contemporaneous records of events under investigation which they had in their possession. Specifically, Ambassador Galbraith and former Principal Deputy Assistant Secretary of State Alexander ("Sandy") Vershbow both made contemporaneous records of events involved in the IOB's inquiry. That they did not share these documents with the IOB, despite the IOB's request for such materials, is disturbing.

In the case of Ambassador Galbraith, he kept a daily "Record" of his activities - as Ambassador to Croatia - in which he documented several highly relevant meetings that are key to understanding whether or not he had acted consistently with the instructions provided him by the Department of State. The head of the IOB, Harrington, only learned of the "Record" in the course of his interview with the Select Subcommittee. The Subcommittee, itself, learned of the "Record's" existence from Galbraith's former secretary, Charlotte Stoltman, to whom the "Record" was dictated.²⁹

Similarly, it also appears the IOB was never told that Vershbow,³⁰ who participated in many of the telegraphic and telephonic communications between the embassy in Croatia and the State Department, kept contemporaneous handwritten notes of those communications.³¹ The Subcommittee has found these documents invaluable to its efforts to reconstruct the events, especially since the Administration saw to it that the events being scrutinized by the Subcommittee are largely otherwise undocumented. The descriptions

²⁹ See Select Subcommittee Deposition of Charlotte Stoltman, Aug. 10, 1996, at 15-20. ("Q: Can you tell us what the Record is? A: Well, the Record started in -- the Record ended in November of 1995. It started -- I think it started and lasted for about 10 days in 1993 and then it picked back up -- it picked back up, I think, late '93. The first one picked up and ended in about 10 days around September, I think, of 1993, and then in November of 1993 he started a second one, and it went until I went on home leave on February 1st, and then he didn't dictate it while I was gone. He picked it back up when I returned to post in May, Q: When you came back May 1, 1994, you had been gone a good two-and-a-half, three months? A: Three months. Q: At that time did Ambassador Galbraith need to catch up on the Record? A: He did some catching up.")

³⁰ Mr. Vershbow currently serves as the Senior Deputy in the Directorate for European Affairs at the NSC.

³¹ Notes of Alexander Vershbow, former Principal Deputy Assistant Secretary of State; Select Subcommittee Deposition of Alexander Vershbow, Aug. 8, 1996, at 5-12.

of events found in Varshtrow's notes, tend to be at odds with the public gloss the Clinton Administration has put on the Iranian green light. His notes display the lack of serious discussion leading up to the President's decision, which had ultimately to the Iranians establishing their strategic beachhead in the heart of Europe. Had the IOB been aware of the notes, it might not have played such a prominent role in the application of that gloss.

CHAPTER 8

THE EVOLUTION AND IMPLEMENTATION OF THE IRANIAN GREEN LIGHT POLICY

The decision by the Clinton Administration to give the Iranians and Croats a "green light" to throw the door open to Iranian weaponry, personnel and influence in the Balkans was reached and implemented hastily in an uninformed haze of confusion. In exploring the origins of the decision, which reflected a major departure from this country's prior policy toward both Iran and the UN arms embargo, the Select Subcommittee encountered starkly conflicting testimony from individuals involved in the process, as well as significant discrepancies between contemporaneous documentation and the Administration's after-the-fact rationalizations of its conduct. Those inconsistencies and discrepancies represented a significant challenge to our ability to set forth with certainty the factual record necessary to explain the origin of the decision to acquiesce in the establishment of the Iranian arms pipeline. Nevertheless, this chapter will review the relevant facts and contentions as revealed in the course of the investigation with a view toward answering as best we can how such a decision came to be made and implemented.

This chapter is, for purposes of organizational clarity, divided into three sections. In the first section, we have set forth the demonstrated US policy and reaction to Iranian efforts to establish an arms pipeline through Croatia from August, 1992, through the summer of 1993. This section provides the background essential for understanding the radical departure reflected by the April 1994 Iranian green light decision.

The second section describes the relevant events between Ambassador Peter Galbraith's July 1993 arrival at his post in Croatia and April 1994, with a view toward describing how Galbraith, Croatian Defense Minister Gojko Susak, US Special Envoy Charles Redman, various Iranian surrogates and others orchestrated a situation in which a radical departure from established US policy toward Iran was not only contemplated but approved at the highest levels of the US government.

The third section provides a detailed exposition of what the Select Subcommittee has been able to determine regarding the operational details attendant to the new policy's genesis, implementation and immediate aftermath in 1994. It is, of necessity, intensely detailed and inherently complicated, but has been presented in this fulsome manner to allow the reader to reach his own judgment about the Clinton Administration's conduct and its consequences.

No Question — "We Have A Policy"

In order to minimize the gravity of its decision not to inform Congress of the Iranian green light decision, the Administration has attempted to argue throughout the Select Subcommittee's investigation that the decision did not constitute a change in policy. Although some of the witnesses from the Department of State have testified that, in their opinion, US policy toward the arms embargo did not change in April 1994, no one has ever been so disingenuous as to suggest that the decision was consistent with the US policy of isolating Iran diplomatically, economically and politically. Moreover, numerous witnesses testified that, as they understood it, US policy toward the UN arms embargo in the spring of 1994 was exactly as Ambassador Galbraith described it in late April of 1994: the US respects the arms embargo and expects other nations to do so, as well.²

The significant departure from prior policy represented by the Clinton Administration's Iranian green light decision can only be appreciated when contrasted with the response of the Bush Administration to the efforts of the Iranians and Croatians to transship arms through Croatia to Bosnia in September 1992.³ By swiftly and conclusively informing the Croatian government that the United States did not approve of the Iranians violating the UN arms embargo, bringing weapons and soldiers to Croatia, and using Croatia as a transshipment point for arming Bosnian Muslims, the Bush Administration left no doubt in the minds of the Croatians or the Iranians about American opposition to Iranian involvement in the Balkan crisis. Although the Bush Administration knew that some leakage of the arms embargo was occurring, it would not countenance an Iranian arms pipeline and demanded, through a demarche, that the Croatians shut it down.

The Bush Administration let the Croatians know by words as well as deeds that the Iranian arms pipeline was not to be condoned.

² E.g., See Hearing On US Actions Regarding Iranian Arms Transfers Into Bosnia Before the Senate Select Committee on Intelligence, 104 Cong. 65 (May 23, 1996) (Testimony of Strobe Talbott).

³ E.g., See Select Subcommittee Deposition of Robert Hunter, Sept. 20, 1996, at 8, 11-14, 41-42 (hereinafter "Hunter Dep."); Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 7-13 (hereinafter "Clark Dep.");

⁴ See Chapter 13.

Despite this "worry," the Croatian Government tested the US with the Iranian arms shipment in September of 1992 and provided the senior official with a chance to convey the US objections strongly. On Labor Day weekend 1992, he was sent to Croatia to engage his Croatian contacts on the issue of the impounded Iranian arms shipment. He met with Zuzul and advised him, in no uncertain terms, to send the arms back to Iran.⁴ Coupled with a United States demarche, a demand by the United States that the arms delivery be reported to the UN and a request by Charge Ronald Neitzke of US Embassy Zagreb to UNPROFOR to seize the arms, the CIA official's message as to the United States' view on Iranian arms could not have been clearer.

The Central Intelligence Agency has been able to determine that the attempted Iranian arms pipeline was shut down in September 1992 and remained closed until the Clinton Administration's Iranian Green Light decision in the spring of 1994.

On January 20, 1993 Bill Clinton was inaugurated President. As noted earlier in this

⁴ Select Subcommittee Deposition of [redacted] Aug. 15, 1996, at 6-11 (hereinafter "Neitzke Dep.");

⁵ Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 13-23 (hereinafter "Neitzke Dep.");

⁶ Dep. at 8-11, [redacted] Dep. at 11-13. (S)

report, the Clinton Administration expressed its intention to honor the UN arms embargo as long as it was in effect.⁹ The Clinton Administration also expressed strongly its policy of isolating Iran diplomatically, economically and militarily.¹⁰ There was certainly nothing in its public discussion of arms embargo policy or the policy toward Iran that would lead foreign governments in the spring of 1993 to conclude that the United States would react differently to the establishment of an Iranian arms pipeline through Croatia than it had in September of 1992. The US had made a clear decision that UN Security Council Resolution 713 applied to all of the former Yugoslavia and that all arms embargo violations should be investigated and where appropriate prosecuted.¹¹

Events confirm that the Iranians and the Croats understood the US no-nonsense policy on Iranian arms transshipments.

In February of 1993, the Turks and Iranians separately approached the Croatian Government about the transshipment of arms to the Bosnian Muslims.

⁹ See Chapter 3.

¹⁰ See Chapter 4.

¹¹ Department of State Cable, 82390, Mar. 22, 1993.

[REDACTED]

The Croatian Government was clearly not willing to risk the ire of the United States.

[REDACTED]

In April 1993, Susak asked the US Special Envoy for the Former Yugoslavia, Reginald Bartholomew, for the US view on Croatia's facilitation of Iranian arms shipments to Bosnia. Bartholomew urged Susak to be careful in dealing with Iran.¹² Bartholomew told him that the United States could not be placed in the position of supporting Croatia in transshipping Iranian arms and that it was Croatia's decision to make. Bartholomew went on to say that the US could not be put in the position of advising the Government of Croatia to supply Iranian arms to the Bosnian Government.¹³ Ron Neitzke, serving as the American Charge in Croatia in these pre-ambassadorial times, was informed by Bartholomew of the Susak question and his response.¹⁴ Subsequent events in the next few months revealed that Susak did not perceive Bartholomew's response as American approval for such transshipments.

Around May 7, 1993, President Tudjman discussed with Charge Neitzke the

[REDACTED]

¹² Department of State Cable, Zagreb 1478, Apr. 27, 1993.

¹³ Although deposition testimony was obtained from Mr. Bartholomew, his failure to remember the words he spoke or the details of the conversation, plus his strained efforts to fit his recollections into the current State Department "theory" makes the testimony of Ron Neitzke a better source of evidence concerning this exchange.

¹⁴ Neitzke Dep. at 23-30.

Increasing pressure the Croatian Government was receiving from Iran on the arms pipeline issue. Tudjman characterized Iran as knocking at the door, and asked Neitzke what the United States wanted Croatia to do. Neitzke, upon instructions from Washington, told Tudjman that the United States did not want Croatia to enter into a relationship with Iran.²² The Croats followed Neitzke's advice a few days later.

[REDACTED]

Although the Croats would continue to flirt with greater ties to Iran in 1993, they saw no need to ask the United States about its attitude toward the Iranian arms pipeline. Charge Neitzke, the [REDACTED] official, and other US officials had made it abundantly clear: Iranian arms in the Balkans was an unacceptable poison. As Ambassador Galbraith noted in April 1994, "We do have a policy. We do the embargo and expect other countries to obey Security Council resolutions."²³

The Question is Orchestrated

The evidence that Peter Galbraith was involved in the planning of the Iranian arms pipeline, or at the very least was knowledgeable of the details of its origin and operation well before the last week in April 1994, is substantial. In his public testimony before the House International Relations Committee in May of 1994, Galbraith assumed Congressman Henry Hyde that the idea of establishing an Iranian arms pipeline to Bosnia originated with the Croats, and not within the US government.²⁴ Moreover, Congressman Balleger questioned Galbraith regarding whether Galbraith or anyone else in our government ever went to the Croats, the Bosnians or the Iranians to suggest that they consider

²² Neitzke Dep. at 32-34.

[REDACTED]

²³ Department of State Cable, Zagreb 1721, Apr. 29, 1994.

²⁴ Hearing On US Role In Iranian Arms Transfer to Bosnia and Croatia Before the House Committee On International Relations, 104th Cong. 54 (May 30, 1993) (testimony of Ambassador Galbraith) (hereinafter "Galbraith HIRC testimony").

establishing an arms pipeline from Iran, or to tell them that we would not object if such a thing were to happen. Galbraith replied that he was not involved in any such conduct, and to the best of his knowledge, he did not "inspire" this suggestion.²⁵ In response to Congressman Gilmart's question about whether Galbraith was ever asked by anyone to help implement the Iranian arms pipeline or help facilitate any dealing of Iranian arms to Croatia or Bosnia, Galbraith answered "no."²⁶ The facts and testimony elicited during the course of the investigation call the truthfulness of these responses into question.

An understanding of the background, activities and motivations of the principal participants in the Croatian events leading to the opening of the Iranian arms pipeline is essential to demonstrating Galbraith's knowledge and involvement.

Getting Acquainted

Peter W. Galbraith assumed his duties as the United States Ambassador to Croatia in July of 1993. Upon Galbraith's arrival, Charge Ron Neitzke became the Deputy Chief of Mission. A man with a penchant for action, Ambassador Galbraith brought to his new position his lengthy experience as a member of the Senate Foreign Relations Committee Staff. As the President's emissary to a nation in what was perhaps one of the most volatile parts of the world, he faced a myriad of challenges and opportunities. Without delay, he immersed himself in the politics and issues of the Balkan region with a self-confidence amply displayed throughout his public life.²⁷

Early in his tenure Galbraith made it clear that he was sympathetic to the plight of the Bosnian Muslims, as they battled Serbs and Bosnian Croats in the complicated and seemingly intractable conflict in Bosnia. Within two months of his arrival in Zagreb, Galbraith met with Imam Selvic Omersabic, a prominent Muslim spiritual leader in Croatia, and a key contact of anyone hoping to follow the Bosnian Muslim issue from Croatia. He was also a high-profile figure in the establishment and operation of the Iranian arms pipeline. In the late summer of 1993, Omersabic was a sufficiently prominent leader in the Croatian

²⁵ Id. at 84-93.

²⁶ Id. at 149.

²⁷ See Peter W. Galbraith, Last Stand: A Report from Kurdistan, The New Republic, Apr. 29, 1991; Peter W. Galbraith, Diplomacy Hasn't Contained the Bosnian Conflict, SAIS Review, Volume 15, Summer 1995.

Muslim community to merit a visit from the United States Ambassador.

The meeting occurred in Omerhaic's office. Galbraith was accompanied by the Embassy Zagreb Public Affairs Officer Susan Horvanc and another individual was present as a translator. Horvanc believes Duska Djukan, a Foreign Service National working at the Embassy, arranged the meeting.³² The evidence is conflicting, but it is possible that Embassy Economic/Commercial Officer Tom Mitrnact accompanied Ambassador Galbraith to the meeting, as well.³³ The meeting was a courtesy call which evolved into an hour long discussion of Muslim suffering and dying.³⁴ Galbraith expressed his sympathy for the Bosnian Muslims and informed Omerhaic that the US did not bear arms or believe anything it heard about the dangers of increasing Islamic fundamentalism.³⁵ Although Omerhaic claims never to have had any further meetings with Galbraith, the credible evidence available as a result of this investigation suggests that Galbraith and Omerhaic met a number of times between August 1993 and April 29, 1994.³⁶

The significance of this contact and relationship between Galbraith and Omerhaic arises from the role Omerhaic played as the key facilitator and operator of the Iranian arms pipeline through Croatia to Bosnia.³⁷

[REDACTED]

³² Select Subcommittee Deposition of Susan Horvanc, Aug. 14, 1996, at 31-33 (hereinafter "Horvanc Dep. 1").

³³ Id. at 31-32, 76-78.

³⁴ Id. at 34.

³⁵ Select Subcommittee Interview of Senjo Omerhaic, Aug. 21, 1996, at 2.

³⁶ Select Subcommittee Deposition of Charlotte Stoffman, Aug. 10, 1996, at 36 (hereinafter "Stoffman Dep. 1"); Memorandum of Interview of Terri Lee Galar by John Galine and Jenine Doherty.

[REDACTED]

By the end of 1993, Peter Galbraith was firmly convinced that the Bosnian Muslims were desperately in need of weaponry or they would not survive.³⁸ He had mobilized his staff to study and alleviate the Muslim refugee situation in Croatia. Embassy personnel were communicating regularly with UN officials and Muslim community leaders, seeking information and doing what they could on the problems.³⁹ Anyone truly interested in the Bosnian Muslim situation would have been acquainted with the Muslim leaders, including Omerhaic.

Galbraith had no aversion to Islamic fundamentalism. As noted earlier, he told Omerhaic as much in their first meeting. Moreover, Galbraith was not as concerned about Iran or its influence, as were other Embassy Zagreb officials. As Netzke has characterized the situation, he and Galbraith had different views on Iran.⁴⁰ Netzke described his own view toward dealings with Iran as "don't do it, don't do anything with Iran."⁴¹ He became very much aware of Galbraith's different view when, after the Iranian arms pipeline opened up, Galbraith proved reluctant to do anything to end the Croatian-Iran cooperation for fear that the arms flow would be interrupted. Galbraith dismissed Netzke's fear of Iranian terrorism by prodding that it was not in Iran's interest to attack the US.⁴² With his mind open with respect to Iranian intentions and set upon finding a solution for arming the Bosnian Muslims, Galbraith was poised to act at the beginning of 1994 and receptive to ideas.

Shortly after his arrival in Croatia, Ambassador Galbraith developed another important relationship for purposes of the investigation, a long and close working relationship with Croatian Defense Minister Susak.⁴³ The two men met and dined frequently, establishing an alliance of professional convenience and mutual benefit which

³⁷ Galbraith HIRC testimony at 21-22.

³⁸ Select Subcommittee Deposition of Peter W. Galbraith, Aug. 19, 1996, at 77.

³⁹ (hereinafter "Galbraith Dep. 1"; Netzke Dep. at 41-42; Select Subcommittee Deposition of Tom Mitrnact, Aug. 14, 1996, at 14-15, 44-52, 69-72; Select Subcommittee Deposition of Richard Holzapfel, Aug. 20, 1996, 8-12.

⁴⁰ Netzke dep. at 53-59.

⁴¹ Id. at 158-159.

⁴² Id. at 113-115.

⁴³ Galbraith Dep. at 147-46, 158-9.

bore, as part of its fruit, the Iranian green light decision. Gajo Susak, although a Croat by birth, spent much of his adult life in Canada amassing a fortune through the pizza business. Born in a small town in Bosnia in the hills between Mostar and Spilj, after his return to the Balkans as Croatian Defense Minister he became intensely focused on regarding the region of his birth, known as the Krajina.⁴⁵ As Defense Minister, Susak set about building a military capable of retaking the United Nations protected areas in the Krajina, Sectors North, South, East and West.

Susak ran the Croatian military with a hands-on approach, functioning more like a commanding general than an American Secretary of Defense.⁴⁶ As his primary focus was Croatian nationalism, he was hostile toward the interests of the Bosnian Muslims and, even when playing a critical role in the Iranian arms pipeline, he was not eager to see the Bosnian Muslims armed with artillery or missiles.⁴⁷ Susak was a powerful man in Croatia, fluent in English from his Canadian years and a man of action for whom Galbraith developed a strong affinity.

In the fall of 1993, the UN arms embargo posed an obstacle to Susak's efforts to augment his army. Embroiled in fighting with Bosnian Muslims and Serbs, Susak embarked on a shopping trip for weapons.

[REDACTED]

Upon Susak's return, he met with Galbraith in one of the first of many one-on-one meetings the two would have over the next three years.⁴⁸

⁴⁵ Select Subcommittee Deposition of Richard Holbrooke, Sept. 27, 1996, at 25-31 (hereinafter "Holbrooke Dep. 7").

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Netzke Dep. at 48-52.

[REDACTED]

Besides the arms shopping trip to Iran, Susak attempted to curry favor with US officials and learn what he could of US attitudes and policy toward the Balkans. In a November 1993 meeting with Undersecretary of State Peter Tarnoff and US Special Envoy Charles Redman, he learned that it was very important to these US officials that Croatia cooperate in the process of getting humanitarian aid to the Bosnians.⁵⁰ At that time and on throughout 1994, the humanitarian aid flow to Bosnia consisted primarily of convoys, organized by Muslim humanitarian organizations that later played a significant role in the Iranian arms pipeline to Bosnia.

[REDACTED]

Ambassador Galbraith was irritated by the fact that his friend Susak had not been viewed as important enough to warrant a meeting with Woolsey.

⁵⁰ Id.

⁵¹ Id.

⁵² CIA Cable, State 343310, Nov. 11, 1993.

[REDACTED]

[redacted] This did not deter Galbraith from his efforts to cultivate an exclusive relationship with Sussek. As previously mentioned, the two began working closely together, and Galbraith would frequently meet with Sussek through 1995, often without reporting such meetings to Washington.⁵² Both men began to realize that they could achieve important goals working in tandem or by using each other.

As 1993 came to an end, Sussek was still mulling over the possible arms deal with Iran, although not excited about the prospects of sharing firepower with the Muslims with whom the Croatsians were still at war. The US was discouraging his military aspirations and apparently had little interest in taking Croatsia's side in the ongoing Balkan dispute. Moreover, if he decided to go forward with an arms deal with Iran, he could anticipate opposition from many within the Croatsian government, who greatly feared the spread of Iranian influence in the area, as well as fierce objections from the US about Iranian intentions.⁵³ Sussek's friendship and working relationship with Galbraith offered a solution to his problems.

The Bosnian Muslims were more than ready to be recruited, armed or otherwise assisted in a war they were clearly not winning. The US Ambassador to Bosnia in 1993 and 1994, Victor Jackovich, was constantly importuned by both Bosnian officials and citizens as to the need for weapons or a lifting of the arms embargo.⁵⁴ The arms embargo was the most important issue for the Bosnian government and Bosnian officials discussed its lifting with Ambassador Jackovich, Fedman, congressional delegations and any US official who would listen.⁵⁵

In late 1993 or the early months of 1994 Ambassador Jackovich received a request that was different from the generalized importuning mentioned earlier. Bosnian Prime Minister Slobodan Djindjic approached Jackovich and told him that Bosnian Vice President Enver Ganic, during a trip to Muslim countries, was informed by the Libyan Foreign Minister that

⁵² [redacted]

⁵³ [redacted]

⁵⁴ See pages 75-80.

⁵⁵ Select Subcommittee Deposition of Victor Jackovich, Aug. 20, 1990, at 8-12, 48-53 (hereinafter "Jackovich Dep. 2").

⁵⁶ [redacted]

Libya would be willing to send arms to Bosnia if the US was agreeable. Jackovic made no comment on the proposal, but agreed to pass it on to Washington. Jackovich reported by cable to the European Bureau of the Department of State. He never received a response from the Department of State on the Libyan arms proposal, and does not recall any follow-up with Bosnian officials.⁵⁶

Thus, it was no surprise that after Jackovich failed to respond favorably to the Libyan arms deal, the Iranian arms pipeline proposal was never suggested or broached with him.⁵⁷ In fact, although he knew that the Iranian and Bosnian government were having continuous contact throughout March and April of 1994, Jackovich was not surprised that the Bosnians did not discuss these contacts with him, in light of the US attitude toward Iran.⁵⁸ Clearly, although sympathetic to the Bosnian Muslim concerns, the US Ambassador to Bosnia was not a good prospect for assisting the Iranians in securing their arms dealing franchise in the Balkans. The prospects were better in Zagreb.

Without Our Fingerprints

On the eve of the Clinton Administration's Iranian green light decision in late April 1994, Ambassador Galbraith assured the Principal Deputy Assistant Secretary of State for European and Canadian Affairs Sandy Vershbow that he could handle giving the US guidance to the Croatsians on the Iranian arms issue "without our fingerprints."⁵⁹ Although this remark is discussed in detail later in this report in the context of explaining the manner in which the US conveyed the Iranian green light, it was a telling remark regarding Galbraith's state of mind in the Spring of 1994 and the extent to which he was bantered with the planned Iranian arms pipeline.

Try as he might, as the Iranian arms pipeline was established in the spring of 1994, Ambassador Galbraith was unable to keep his own proverbial fingerprint from appearing on the evidence. A mere comparison of how the Iranian pipeline was operated with

⁵⁷ [redacted]

⁵⁸ [redacted]

⁵⁹ [redacted]

⁶⁰ Select Subcommittee Deposition of Alexander Vershbow, Aug. 8, 1996, at 48-58 (hereinafter "Vershbow Dep. 2") (Notes of Alexander Vershbow (hereinafter "Vershbow Notes 2").

Ambassador Galbraith's words and deeds in the winter and spring of 1994 reveals starkly his knowledge and role.

In late February or early March of 1994, Ambassador Galbraith approached [redacted] to discuss a proposal he was exploring to arm the Bosnian Muslims. Galbraith requested that the [redacted] begin a covert action proposal. The proposal, as described by Galbraith, would involve the US communicating to the Croats that it would look the other way if the Croats would allow arms for the Bosnian Muslims to train Croatian territory on whatever terms could be worked out between the Croats and the other parties. Galbraith further suggested that the Iranians could be the suppliers of the arms. He further proposed that the Turks be used as "cut-outs" in the plan. The [redacted] appealed at the idea, replied that the plan was not a good idea as it would give Iran a firmer foothold in the Balkans, would violate US law under the UN arms embargo regime, would be unsustainable in an operational sense, (UNPROFOR or NATO would notice or the Iranians would leak knowledge of its existence) and it would result in the Serbs viewing the US as a co-belligerent in the war. [redacted]

As additional downsides to Galbraith's plan, the [redacted] identified the risk of encouraging Croatian military aspirations, the lack of deniability given the need to let ships or planes sneak by and the substantial risk to intelligence "equities" posed by such an Iran-Contr type plan without clear policy-level guidance. The [redacted] ended his remarks by informing the Ambassador that such a proposal would have to come down from the NSC or the White House, and he would not initiate such an action proposal [redacted]

Despite the [redacted] bleak assessment of the wisdom or prospects for his Iranian "look the other way" plan, Galbraith appeared undeterred in his enthusiasm. He told the [redacted] that he might raise the plan with National Security Advisor Anthony Lake. The [redacted] observed that he had sufficiently discouraged Galbraith such that his Iranian plan would "die a deserved death." [redacted]

Galbraith thought differently. He was no stranger to creative thinking about actions to arm the Bosnian Muslims. In November of 1992, while still a Senate Foreign Relations

[redacted] 7/05

Committee staffer, he accompanied Senator Daniel Moynihan to Bosnia. In a meeting with the UN Commander, General Morillon, he asked the General what he thought about the US arming the Bosnian Muslims. Morillon replied, "Just give me five days to get the hell out of here and you can do what you want." [redacted] In December 1993, shortly after [redacted]

Galbraith had approached [redacted] and asked him whether [redacted] was conducting a covert action to arm the Bosnian Muslims. He openly advocated that such an action would be a good thing, but cautioned that a friendly Muslim country such as Saudi Arabia should be the provider of the weapons to alleviate the political blowback. [redacted] checked with the [redacted] and learned that no such plan was in effect, and there was no Presidential finding authorizing such a program. [redacted] Galbraith expressed further interest in proposing such a plan. [redacted]

As noted, by the spring of 1994, the Iranians figured prominently in the new proposal. This was no accident. Galbraith's proposal was a virtual blueprint for the Iranian arms pipeline that was put into effect by Susak, Omerbesic and Hasan Cengic in May 1994. This tallies strikingly between the Galbraith plan and the Iranian pipeline is not the only evidence that he had advance knowledge of the Iranian-Croatian plan. In another of his frequent telephone conversations with Alexander Vershbow during the last week of April 1994, Galbraith told Vershbow details about the Iranian arms flights, such as the fact that they would arrive in unmarked 747 aircraft and the fact that the Croats and the Muslims would split the arms, fifty-fifty, which he could not have known had he not had knowledge of the plan before President Tudjman's question. [redacted]

Whether Galbraith authored the arms pipeline plan and brought the Croats and Iranians to agreement, or whether the plan was designed by the Croats and Iranians, who then told Galbraith of the details and secured his help, no one may ever be able to determine. Susak refused to make himself available for an interview with the Select Subcommittee staff during its investigative visit to Zagreb. And although Omerbesic consented to a brief meeting during that Zagreb trip, his answers to the staff's questions

¹⁰ John Porfiri and David B. O'Harey, *US, Enemy's Balkan Role Criticized on Capitol Hill*, Washington Post, May 21, 1990 at A12.

[redacted] 7/05
¹¹ Vershbow Dep. at 11-17; Vershbow Notes.

were demonstrably false on most of the issues critical to the investigation, and thus of little help. Nevertheless, Galbraith's own words reveal his central importance to the evolution of the pipeline.

[REDACTED]

shared this information with Ambassador Galbraith, who admitted that he was one of the US officials who met with Omrebasic, but that the meeting was in a mosque at a public religious event and that there was no discussion with Omrebasic on the subject of arming the Bosnian Muslims. Galbraith identified the other "official" mentioned in the report as Tom Mitrnact. [REDACTED] shared with Galbraith in the next few weeks the intelligence information regarding Omrebasic's activities." [REDACTED]

[REDACTED] The import of this distancing was not lost on Omrebasic, who was still angry at US officials two years later when then Deputy Chief of Mission Patrick Finn of the Embassy Zagreb paid him a courtesy call. Omrebasic pointedly observed to Finn that no US Embassy official had paid him a visit since spring of 1994.⁷² This distancing activity is strongly indicative of a consciousness on Galbraith's part that being linked to Omrebasic, in light of the other evidence of his advance knowledge of or possible participation in the planning of the

⁷² Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷³ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁴ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁵ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁶ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁷ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁸ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁷⁹ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁸⁰ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁸¹ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁸² Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

⁸³ Select Subcommittee Deposition of [REDACTED] Galbraith Dep. at 288. (Fetner/Heller Dep. 7, [REDACTED] Aug. 8, 1999, at 23-24)

Iranian arms pipeline, would contradict the denials of any role in encouraging the Croats and Iranians to establish the pipeline or in orchestrating the posing of the question to the US government. In sworn testimony before a congressional committee, he has attempted to minimize his contacts with Omrebasic to a single very fleeting, public meeting,⁷³ testimony elicited and evidence obtained in the Select Subcommittee's investigation has revealed that Galbraith had other meetings with Omrebasic, some of them in the US Embassy, and that the bulginess card of Omrebasic was in the Ambassador's Roverdex as late as August 1996.⁷⁴

The evidence is also clear that during the spring of 1994, as Galbraith shopped his Iranian "look the other way" solution to the crisis of the Bosnian Muslims with the [REDACTED] Omrebasic and Susak were working with the Iranians to make that solution a reality. The Washington Accord, resulting in the Muslim-Croat Federation, by halting the fighting between Croats and Bosnian Muslims, softened Susak's resistance to the Iranian arms proposal. [REDACTED]

[REDACTED] Given the Croatian desire to act in accordance with the wishes of the US, the Croats could not give the Iranians any guarantees without assuring that the US would not object.⁷⁵

The key to getting the favorable US response necessary for the Iranians, Croats and Bosnians to feel secure in cementing the "wh-~~wh~~" arrangement was Ambassador [REDACTED]

⁷² Hearing On Bosnia Before the House Permanent Select Committee on Intelligence, 104th Cong. 30 (July 30, 1995) (testimony of Peter Galbraith) (Fetner/Heller Deposition of Galbraith HPSCI testimony).

⁷³ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁴ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁵ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁶ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁷ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁸ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁷⁹ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸⁰ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸¹ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸² Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸³ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸⁴ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

⁸⁵ Select Subcommittee Dep. Bate Stamp #000001 (Aug. 21, 1999).

Galbraith. In light of his sympathy for the Bosnian Muslims, his open-minded view towards Iran, his friendship and close working relationship with Susak, his desire to make the Federation work and his natural tendency toward action, Galbraith was willing to orchestrate a diplomatic exchange which would meet the needs of all parties. Confident in his ability to sway the opinions of his superiors, he set to work to assure that the Croatian government asked the right question, and received the answer it needed."

It was on April 28 that Peter Galbraith received the words which gave the Iranians and Croats the green light.

The Question is Posed

By mid-April 1994, Croatian Defense Minister Susak, had apparently prevailed upon President Tudjman to accept weapons from Iran and allow the Iranian arms pipeline to Bosnia to pass through Croatia. In light of what he knew of the mutual antipathy between Iran and the US, as well as past reactions by the US to arms embargo violations, Tudjman proceeded cautiously to seek the US position with regard to such a move. Whether Susak discussed with Tudjman the efforts and willingness of Ambassador Galbraith to arrange for a positive US response on the Iranian arms pipeline is a matter of mere speculation, given the refusal of President Tudjman and Susak to make themselves available to the Select Subcommittee for interviews. Nevertheless, despite a division within his own government regarding the wisdom of working with Iran, President Tudjman decided to pose the question. How that question was asked, how the US developed a response, and how Ambassador Galbraith conveyed that response, as well as the consequences and the confusion that flowed from the decision are discussed in the pages that follow.

The Croats Test the Waters

In mid-April of 1994, the Croatian officials began again to explore whether or not the US Government would tolerate or approve the shipment of Iranian arms to Croatia and Bosnia. On April 15, 1994, during a meeting with Special Envoy Charles Redman, [redacted] informed Redman that the Bosnians had come to the Croatian Government earlier that day, asking for weapons. [redacted] stated that Croatia

" See Pages 92-111.

[redacted]

remained "oriented toward peace," and that Croatia hoped for US support for that position. To the US Deputy Chief of Mission (DCM) Ronald Neitzke, who was in attendance at the meeting, [redacted] remarks evidenced that the Croats had little appetite for reestablishing a pipeline for arms to Bosnia. He also formed the impression that the Croats might soon seek more specific guidance from the US on this issue. On April 19, 1994, Neitzke reported on this conversation to the Department of State by cable.

On April 20, 1994, the [redacted] reported to his headquarters that, in the wake of Redman's April 18, 1994 visit, the question of Croatian circumstances that the arms embargo had reappeared. He recounted Ambassador Galbraith's conversations with him in March 1994 about developing a covert action to let the Croats know the US would look the other way if arms were to transit their territory, stressing that, although he believed Galbraith's plan had "died a deserved death," that belief was apparently premature. He reported that he had been informed by Neitzke that Ambassadors Redman and Galbraith were among those discussing "doing an Afghanistan" in Bosnia to arm the Muslims. Although uncertain about the seriousness of such talk, the [redacted] reported it out of an abundance of caution to keep headquarters informed.

The following day, April 21, 1994, the [redacted] was approached by a [redacted] and was asked what the US position was with respect to the arms embargo and the transshipment of arms through Croatia. The contact expressed his opinion that allowing such transshipments would be a bad idea, possibly leading to renewed fighting between Bosnian Muslims and Croats. The [redacted] further offered to help identify such arms shipments if the [redacted] could provide information on them.

The [redacted] was aware of the US position to date and having watched President Clinton declare publicly on television the previous evening that the US honored the arms embargo, responded to the question by stating that compliance with the arms embargo was US policy. The [redacted] informed Neitzke, who was Change in the absence of Ambassador Galbraith, of the query from the [redacted]. Neitzke sent the Department of State a message on this development in which he referred to a related conversation that [redacted] had with Redman on April 18. He opined that [redacted] had perhaps been too subtle in his approach with Redman, and may have wanted to ask the US more formally to stand with Croatia in rejecting the Bosnian approach. The Croats, in his

" Department of State Cable, Zagreb 1587, Apr. 19, 1994.

[redacted]

view, clearly intended to stonewall the Bosnians until they received formal clarification of United States support for their inclination to refuse. The cable also informed the Department of State that Iran still loomed most prominently as the likely source of arms.³⁵ Neitzke sought guidance on the issue.

Croatian government officials continued to test the waters on the Iranian pipeline issue. On April 22, 1994, Lieutenant Colonel Richard Herrick, the Defense Attache to the US Embassy Zagreb, met with Croatian Defense Minister Susak regarding a number of military issues. The meeting was one in a regular series of meetings that the two held to discuss matters of mutual military interest.

[REDACTED]

³⁵ Department of State Cable, Zagreb 1597, Apr. 21, 1994.

On his return to the Embassy, Herrick reported his conversation to Neitzke. Neitzke told him to report the discussion back to Washington, which Herrick promptly did by cable on Monday, April 25, 1994.³⁶ Herrick showed the cable to Ambassador Galbraith upon the latter's return to Zagreb on April 25 or 26.

Shortly thereafter, Galbraith, Neitzke, Herrick and the [REDACTED] met to discuss the various Croatian approaches. Galbraith questioned Herrick as to why he responded to Susak as he had. Herrick replied that his response was the US officially stated policy. The Ambassador asked Herrick to set up a meeting between the Ambassador and Susak at which time the same question could be posed. In other words, he told Herrick to get Susak to ask him the question. The [REDACTED] expressed his opinion during the meeting that anything having to do with Iran was fraught with danger and should be avoided. He urged the Ambassador not to support the Croatian proposal.

On April 27, 1994, Neitzke, Special Envoy Redman and Croatian Foreign Minister Granic met in Zagreb to discuss the Washington Accords and Federation issues. When the discussion on these subjects ended, [REDACTED] appealed to Neitzke for help in understanding Iranian pressure to allow the transshipment of Iranian arms to the Bosnian Muslims. Neitzke was also informed that Croatian President Franjo Tudjman would ask Galbraith about the US position on this issue at a meeting the following morning, April 28, 1994. Neitzke remembers Redman being present during this conversation with [REDACTED] and believes that he should have heard what was said. Nevertheless, Redman has stated in sworn testimony that he was unaware of the Croatian request regarding the transshipment of Iranian arms until his return to Zagreb on April 28, 1994.³⁷ On his return to the Embassy, Neitzke informed Ambassador Galbraith of the conversation with [REDACTED]. Galbraith seemed

[REDACTED]

³⁶ Department of Defense Cable, [REDACTED] Apr. 25, 1994.

³⁷ Herrick Dep. at 12-24; [REDACTED] Apr. 28, 1994.

³⁸ Neitzke Dep. at 60-66.

³⁹ Select Subcommittee Deposition of Charles Redman, August 27, 1996, at 29-37 (hereinafter "Redman Dep.").

unaware that the question was to be posed to him the next morning, and he acted quickly to contact Washington for instructions. Although Galbraith wanted a "nonobjection" instruction, Neitzke made it clear that he did not agree. ~~_____~~

At the close of business on April 27, 1994, Ambassador Galbraith asked ~~_____~~ to meet with him in the conference room. During that meeting, Galbraith described a recent meeting with Susak, in which Susak had made the case in favor of the United States' supporting the transshipment of Iranian arms through Croatia. Galbraith told ~~_____~~ that if ~~_____~~ should raise the arms transshipment issue again, the US position on the arms embargo is not firm. ~~_____~~ stated that statement was not consistent with publicly stated US policy, the ~~_____~~ asked Galbraith if he had received instructions to that effect. The Ambassador responded that the matter was under review and that "Washington doesn't know what policy it wants anyway." Without some sort of confirmation of a policy shift or reconsideration, the ~~_____~~ declined, so the Ambassador told him to get ~~_____~~ to ask the question of the Ambassador instead. ~~_____~~

The Home Office Fails to Distinguish Itself

As this preliminary scurrying out of the US policy was underway in Croatia, Ambassador Galbraith was actively lobbying the Department of State for a response that would signal to the Croats that the United States had no objection to the proposed Iranian arms pipeline. According to contemporaneous notes taken by Alexander "Sandy" Vershbow, then serving as the Principal Deputy Assistant Secretary of State for European and Canadian Affairs, Ambassador Galbraith spoke with him by telephone at the Department of State on either April 25 or April 26 to argue his position. Galbraith told Vershbow that President Tudjman of Croatia would be requesting the United States view on such shipments at an upcoming meeting, that it was an important matter and that he needed instructions from senior levels in Washington. Galbraith explained that the ~~_____~~ and Defense Attache Henrik had told Croatian officials that US policy was to uphold the UN Security Council resolutions and to oppose their violation. Ambassador Galbraith stated that he needed clear guidance on the President's policy and wanted instructions vetted at a high level, such as by the Acting Secretary of State or National Security Advisor Anthony Lake. He wanted those instructions by cable ~~_____~~

⁴⁶ Neitzke Dep. at 60-66.

⁴⁷ ~~_____~~ April 28, 1994 ~~_____~~

⁴⁸ Vershbow Dep. at 11-17; Vershbow Notes.

In that same telephone conversation, Ambassador Galbraith discussed what he believed to be the pros and cons of the different responses available to the question anticipated from President Tudjman. He warned that UNPROFOR would most likely detect the arms shipment traffic. He also betrayed a strikingly detailed and prophetic knowledge of the details of the Iranian/Croatian plan, remarking that the arms would arrive in unmarked 747 airplanes, the Croats would take half of the arms for themselves and the other half would go on to the Bosnians. ⁴⁹ Galbraith characterized the United States' response he advocated as a "wink and nod." ⁵⁰ He was insistent that he must have Departmental guidance prior to his scheduled meeting with President Tudjman on the morning of April 28.

Vershbow, accepting this deadline, began to regard the issue as "urgent." ⁵¹ Accordingly, immediately after this conversation with Galbraith, Vershbow bro~~_____~~ the issue to the decision makers on the Seventh Floor of the Department, in particular Undersecretary for Political Affairs Peter Tarnoff. Mr. Tarnoff was the Senior Department official responsible for policy with respect to Bosnia. Tarnoff was also the Acting Secretary of State, as Secretary Christopher was traveling in the Middle East and Deputy Secretary Stroble Talbot was traveling with President Clinton's entourage to the funeral of former President Richard Nixon in California. On April 27, 1994 Vershbow's notes indicate that he attended a meeting on Bosnian-related issues with Tarnoff. During the course of that meeting, Vershbow received a message from Tom Donlon, the Chief of Staff to the Secretary of State advising him not to let too much time elapse before responding to President Tudjman and that there should be "no funny business." ⁵² Vershbow recollects no further discussion of the Tudjman question during the April 27 meeting.

At the time of the meeting, Donlon was traveling with Secretary Christopher in the Middle East. On the evening of President Nixon's funeral, April 27, 1994, Mr. Donlon was at the Serenians Hotel in Cairo, Egypt. He had several telephone conversations with Tarnoff that night, serving as Secretary Christopher's "link" back to the State Department. Although Donlon has no present recollection of the "no funny business"

⁴⁹ As it turns out, once the pipeline was operational the Croats' portion usually turned out to be about one-third.

⁵⁰ Vershbow Dep. at 11-17; Vershbow Notes.

⁵¹ Vershbow Dep. at 18.

⁵² Vershbow Dep. at 28-30; Vershbow Notes.

remark, he does not question the accuracy of Vershbow's notes indicating that he made it.⁸⁶ Tarnoff advised Donilon that the issue raised by Ambassador Galbraith was under consideration, and that there were differing opinions in Washington as to what response should be. Tarnoff also indicated that he was in contact with Talbot, who was with the President on Air Force One. Donilon informed Secretary Christopher that the issue was being discussed back in the United States, and Secretary Christopher exhibited no memorable response beyond acknowledgment of the information.⁸⁷

Later in the day on April 27, as the discussions continued in Washington, Galbraith called Vershbow, informing him that the meeting with President Tudjman the next morning would begin at 11:30 a.m. Galbraith said something about having or having had lunch with Defense Minister Susak, and Vershbow surmised that Galbraith may have learned of President Tudjman's planned question during such a lunch. Galbraith also reported in the conversation that he had heard from the Croatians that Croatian Prime Minister Valentic was scheduled to depart for Iran on April 29.⁸⁸

He expressed concern to Vershbow that using the "no instructions" policy may not have the right effect, and that the Croatians might back off from the arms pipeline idea.⁸⁹

Besides speaking with Vershbow, Galbraith made other efforts to advocate his position. He placed a telephone call directly to Undersecretary Tarnoff, which was not returned.⁹⁰ He also composed and transmitted a cable to the attention of Secretary Christopher on April 27.⁹¹

In this April 27 cable, Ambassador Galbraith recommended that President Tudjman be given a "non-responsive" answer that indirectly signaled that the United States would not object to the arms shipments. While acknowledging that the major supplier of arms would be Iran, he argued that a non-response would be better than "no instructions." He argued

⁸⁶ Select Subcommittee Deposition of Thomas Donilon, Sep. 12, 1996, at 12-16.

⁸⁷ *Id.* at 12-14.

⁸⁸ Vershbow Dep. at 30-33; Vershbow Notes.

⁸⁹ Select Subcommittee Deposition of Peter Tarnoff, Sep. 13, 1996, at 29 (hereinafter "Tarnoff Dep. 1").

⁹⁰ Department of State Cable, Zagreb 1883, Apr. 27, 1994.

forcefully that "if we do not object to Croatia's role as a conduit, it is better to signal that now." He repeated his concerns that the Valentic visit to Iran would be hindered, as he believed that the only thing the Iranians wished to discuss with Valentic were the arrangements for the shipments of arms. Ironically, he suggested that he should also "caution" the Croatians on developing too close of a relationship with Iran.⁹²

Ambassador Galbraith also discussed in this cable his understanding of Croatian government views on the Iranian arms issue. He judged that Croatia wanted to eat with US approval, and it also wanted to be sure that the US would not act or speak against Croatia if it undertook the role of arms conduit. He acknowledged the difference of opinion within the Croatian government.⁹³

He also argued that stopping the arms pipeline is "a repeating a mistake of the past." He specifically argued that the US demarcate to Croatia in September 1992 over Iranian arms transshipment had led to the outbreak of war between Bosnians and Croats that fall. His cable once again stressed the urgency of his request.⁹⁴

On the morning of April 28, 1994, Vershbow called Ambassador Galbraith on an open (that is, non-secure) phone line to tell him to convey to President Tudjman in their meeting that he (Galbraith) really had no instructions.⁹⁵ Galbraith was left with the understanding that the issue was still being reviewed and that a decision had not yet been made. He continued to press his arguments with Vershbow, again advocating a "non-responsive response" that would give President Tudjman a go ahead to cooperate with Iran. Galbraith returned a political argument for his position, opining that those in Congress who favored lifting the arms embargo would be pleased with the proposed course of action, since it would help the Bosnians. Vershbow's notes also reflect that Ambassador Galbraith said such members of Congress would "be less hot on the issue."⁹⁶ Vershbow, during this telephone conversation or another one later that day, indicated his belief that "no instructions" would have the same effect as a non-responsive response. Galbraith argued once again against Susak's view that if the Croatians did not cooperate with the pipeline, the Bosnian Muslims would lose their commitment to the Federation. He repeated

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Vershbow Dep. at 33-36.

⁹⁵ Vershbow Dep. at 41-47; Vershbow Notes.

that cutting off arms flows in 1993 had led to war.¹⁰⁵

In the telephone conversation with Vershbow, Galbraith expressed his impatience that Washington had not yet made a decision. He was adamant that he did not want to attend a meeting with Tudjman without guidance. Galbraith stated to Vershbow that the United States could handle the matter and provide guidance to the Croatians "without our fingerprints" and that he could say what he wanted to say "less directly."¹⁰⁶

Later on April 28, 1994 Galbraith attended the much-anticipated meeting with President Tudjman in Zagreb. At the meeting, Galbraith stuck to the guidance he had, such as it was. He informed Tudjman that the United States honors the arms embargo. He further stated that, although the embassy had been aware that the arms issue might be raised and he had sought his instructions from Washington, he had not yet received any. In sum, he told President Tudjman he could not give a direct reply to the question.¹⁰⁷

President Tudjman advised that he sought US guidance because the Croatian government wanted to act in accordance with US policy, especially in light of the Washington Accords. He was well aware of the West's attitude toward Iran, but described the request as a test of Croatia's good will toward Bosnia.¹⁰⁸

Following this meeting with President Tudjman, Ambassador Galbraith urgently called the Department of State, reporting his conversations and once again advocating a modification of US policy. He reminded Washington of his understanding of US policy (We have a policy. We obey the embargo and expect other countries to obey Security Council resolutions.) and urged that it be modified to signal to the Croatians that we would not object if they were to serve as the arms conduit to the Muslims. In his desperation, the Ambassador stressed that the Croatians had repeatedly signaled Tudjman's intent to ask the question and the State Department had known so for over a week.¹⁰⁹

While Galbraith agonized over his failure to receive instructions, Vershbow, Tarnoff

¹⁰⁵ Vershbow Dep. at 41-47.

¹⁰⁶ Vershbow Dep. at 48-56; Vershbow Notes.

¹⁰⁷ Department of State Cable, Zagreb 1721, Apr. 28, 1994.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

and other officials in Washington had not yet reached a decision. Vershbow testified that he and Tarnoff considered only two options available for Galbraith's response: 1) a clear statement that the United States abides by the arms embargo and expects others to do so, or 2) an indication that the US neither endorses nor approves by continuing to say "no instructions." Although they were concerned that Iran would be the principal arms supplier, they felt that having a "neutral stance" was justified in that it opened the arms flow.¹¹⁰ There was no consideration of an option that might have closed the door on Iranian arms, but left it open regarding more palatable and less dangerous sources.

During these discussions, Vershbow did not share with Tarnoff all of the information he learned from Galbraith. He neglected to mention that Galbraith had advance knowledge of the Iranian intent to ship the arms in unmarked 747 aircraft. He also did not convey that the Croatians would be keeping half of the weapons for themselves.¹¹¹

In the midst of this process, Special Envoy Charles Redman telephoned Vershbow from Bosnia. Vershbow's contemporaneous notes indicate that Redman told him that he (Redman), at the request of President Tudjman, was on his way to Croatia to discuss arms, Iran and other subjects. Redman added that, if he had instructions, he would use them.¹¹² In closed and public testimony, Redman denied that he knew anything about the Tudjman question regarding the Iranian arms issue prior to his arrival in Zagreb on April 29, 1994.¹¹³ Vershbow's contemporaneous notes cast doubt on the truthfulness of those denials. Vershbow was also told in that April 28 telephone conversation with Redman that [redacted] stated that pending contacts with Iran were being held up by Bosnia-Iran committees.¹¹⁴ Vershbow recalled no greater detail about that portion of the conversation.¹¹⁵

The Washington Decision

As Redman traveled to Zagreb, officials in Washington and en route from the Nixon funeral apparently arrived at a decision on how to respond to the Tudjman question.

¹¹⁰ Vershbow Dep. at 38-40.

¹¹¹ Tarnoff Dep. at 39.

¹¹² Vershbow Dep. at 70-72; Vershbow Notes.

¹¹³ Redman Dep. at 38-42.

¹¹⁴ Vershbow Dep. at 70-72; Vershbow Notes.

Despite the fact that the Administration has characterized the "no instructions" decision as a "brilliant" stroke of diplomacy,¹¹⁶ the least "ouster" of all available options and a judgment has revealed that those consulted in the decision making process have displayed a curious tendency to minimize their own involvement in the decision, while readily extolling their virtues. To the extent facts and circumstances concerning the decision's genesis have been made available, they can be summarized as follows:

As the Acting Secretary of State, Peter Tarnoff made efforts to keep in touch with Chief of Staff Donilon in Secretary Christopher's party in the Middle East. In addition to talking to Donilon, he also had at least one discussion with Secretary Christopher himself on the issue. During that discussion, Tarnoff and Christopher spoke about three options which Mr. Tarnoff believed were being contemplated on Air Force One by the President's advisors: responding with no objection, objecting, or responding with "no instructions." Tarnoff informed Secretary Christopher of a consensus developing among those involved in the process toward "no instructions," and the Secretary seemed comfortable with that development.¹¹⁷ In addition to Secretary Christopher, Tarnoff discussed the issue with Alexander Vershbow, Tom Donilon and Sandy Berger, the President's Deputy National Security Adviser.¹¹⁸

Berger told Tarnoff that the President had made the decision that Ambassador Galbraith was to have no instructions.¹¹⁹ Tarnoff called Tom Donilon to inform him of the President's decision, and Donilon, in turn, informed Secretary Christopher, who acknowledged Donilon's message and expressed no objection to it.¹²⁰ Tarnoff has no

¹¹⁶ Select Subcommittee Deposition of Strobe Talbot, September 5, 1996, at 45 (hereinafter "Talbot Dep. 7").

¹¹⁷ Hearing On U.S. Actions Regarding Iranian Arms Shipments Into Bosnia Before the Senate Select Committee on Intelligence, 104th Cong. 48 (May 23, 1996) (Testimony of Richard Holbrooke).

¹¹⁸ Tarnoff Dep. at 8.

¹¹⁹ Tarnoff Dep. at 8-10.

¹²⁰ Tarnoff Dep. at 5.

¹²¹ Tarnoff Dep. at 8-9.

recollection of telling Vershbow of the President's decision.¹²¹ Moreover, Tarnoff does not recall how the "no instructions" guidance was conveyed to Galbraith.¹²² Vershbow recalls, however, that between April 28 and April 30 he gave Galbraith the "no instructions" position three times, and believes that Tarnoff probably directed him to make these calls.¹²³

The decision was purportedly taken to President Clinton while he was aboard Air Force One returning from the Nixon funeral in California. Deputy Secretary Talbot and National Security Adviser Lake, who were accompanying the President, first discussed the options privately. Talbot also recalls being in touch with Tarnoff by telephone from the plane. It is the recollection that he and Lake concluded that the "no instructions" response was the best option and should be the recommendation to the President. Talbot did not speak with the President about this matter. Lake then went to the President's compartment to discuss the matter. He returned shortly and advised Talbot that the President approved the "no instructions" option.¹²⁴

President Clinton has not publicly acknowledged or claimed that he personally made the decision to issue the "no instructions" guidance to Ambassador Galbraith. In a letter dated May 15, 1996 to Senator Jesse Helms of North Carolina, the President characterized the decision by saying "we chose not to take a position with respect to Croatia's permitting arms shipments to Bosnia across its territory. I believe that my Administration made the correct decision at the time . . ."¹²⁵ The Select Subcommittee's ability to determine precisely what was presented to the President during the discussion with Lake (and his responses to such information) has been hindered by the refusal of the White House Counsel to permit Lake to respond to questions regarding his conversations with the President, as well as, the refusal of White House Counsel to permit Lake's testimony to be taken under oath.

The evidence available with respect to the decision making process reveals that the President was almost certainly not provided with relevant, highly sensitive, and

¹²¹ Tarnoff Dep. at 5.

¹²² Tarnoff Dep. at 32.

¹²³ Vershbow Dep. at 28-30.

¹²⁴ Talbot Dep. at 31.

¹²⁵ Letter from President Clinton to Senator Jesse Helms (May 15, 1996) (emphasis added).

controversial information important to the decision he was being asked to make. The details of the arms delivery plans known to Ambassador Galbraith and conveyed to Vershbow were not passed on to Tarnoff, and consequently not to Lake, Berger or the President. Tarnoff, Talbot, Berger and Lake were unaware, at that time, of the discussions Galbraith had prior to April 1994 regarding his proposed plan to signal the Croats that the United States would look the other way if it acted as an arms conduit, or that Galbraith had suggested that the Iranians might be used as a source of the smuggled arms.¹²⁵

Determining precisely what information and arguments were considered in the decision-making process has, of necessity, been dependent upon the recollections of the US officials involved, many of whom were reluctant or outright refused to share the details of the statements by and between officials. Moreover, no written position papers, decision memoranda or other written analysis were prepared for the President or, his advisors. Nonetheless, a few conclusions about the discussions are clear. Tarnoff has testified that the "consensus" reached in the process was that the Iranians already had a presence in the Balkans and that the "no instructions" message would not lead to a significant increase in Iranian presence or influence.¹²⁶ The consensus prediction proved to be woefully inaccurate.¹²⁷ Galbraith and Vershbow stated the hope that Croatia would accede to the pressure to allow the pipeline even though the NATO allies would discover the arms flow, and despite the fact that some members of the Croatian government opposed it.¹²⁸ Whether other relevant United States officials felt the same way or were advised at all of the split in the Croatian Government is unknown, given the information made available. Lake and Berger were unaware of that split.¹²⁹

Vershbow and Tarnoff never discussed with Galbraith the type of arms which the Iranians anticipated shipping through the pipeline, nor did they discuss with him how such an arms flow could be controlled, so as to prevent identical weapons or other undesirable

¹²⁵ Talbot Dep. at 7; Tarnoff Dep. at 22; Select Subcommittee Interview of Anthony Lake, Sep. 26, 1996, at 1 (hereinafter "Lake Int."); Select Subcommittee Interview of Samuel Berger (hereinafter "Berger Int."), Sep. 25, 1996, at 2.

¹²⁶ Tarnoff Dep. at 31.

¹²⁷ See Chapters 12, 13 and 14.

¹²⁸ Vershbow Dep. at 48-56.

¹²⁹ Lake Int. at 1; Berger Int. at 2.

arms from entering the Bosnian theatre.¹³¹ There is no evidence that this aspect of the decision was discussed with or between higher level officials.

Undersecretary Tarnoff's recollection indicates that during the decision-making process, there was no discussion by officials of the impact of the "no instructions" solution upon the United States policy toward Iran,¹³² and there was no consideration that the "no instructions" guidance could send Iran the wrong message about US attitudes or policy.¹³³ Vershbow was aware at the time he participated in the discussions that the Iranian agenda was to gain greater influence, promote Islamic fundamentalism and support anti-Western aims. The US policy widely understood in the Administration at that time, was to isolate Iran, economically, militarily, and politically.¹³⁴

Exactly Where We Want to Be

On April 29, 1994, Special Envoy Charles Redman arrived in Zagreb, Croatia to find Ambassador Galbraith still impatiently awaiting a response from the Department of State which he would feel comfortable conveying to President Tudjman. Redman has testified that he traveled to Zagreb on that date to brief President Tudjman on Contact Group issues, and had been advised by Galbraith by telephone that he (Redman) needed to be briefed on something prior to the meeting with President Tudjman. Ambassador Galbraith provided no details as to the subject matter, out of concern that the telephone call may have been monitored by the Croats.¹³⁵

Redman and Galbraith met at the Ambassador's residence. Redman recalls being briefed on the Tudjman question and has testified that he could not see how the appropriate answer could be anything other than "no instructions." It was clear to him, however, that Ambassador Galbraith wanted further instructions from Washington.¹³⁶ Ambassador Galbraith asked Defense Attache Richard Herrick, who was present at the

¹³¹ Vershbow Dep. at 48-56.

¹³² Tarnoff Dep. at 43.

¹³³ Id.

¹³⁴ Vershbow Dep. at 123-131; Tarnoff Dep. at 41; Talbot Dep. 27-28.

¹³⁵ Redman Dep. at 37-46.

¹³⁶ Id.

Ambassador's residence that evening, to place a telephone call to Jerome Walker of the National Security Council (NSC) ostensibly to discuss the Council's assistance in getting a demolition team to Croatia to assist with an ordinance issue. After picking up the call, Herrick turned the telephone over to Ambassador Galbraith. Herrick's recollection of the remainder of the telephone call is that Ambassador Galbraith spoke with Jerome Walker regarding the military demolition team issue and the Iranian arms question. Herrick recalls that Redman then spoke with Walker, although he did not overhear that conversation.¹²⁷

Redman, in the deposition testimony before the Select Subcommittee stated that Galbraith spoke with Walker during that telephone conversation regarding the Tudjman question and received the "no instructions" instruction. Redman acknowledges that he then got on the line to speak with Walker, but only about Contact Group issues.¹²⁸

At the time of the above referenced telephone discussion, Jerome Walker served on the staff of the National Security Council as the Senior Yugoslav Director for Europe. In the Spring of 1994, the countries which had constituted the former Yugoslavia (including Croatia and Bosnia) were the responsibility of the European Directorate.¹²⁹ In that capacity, her duties included a coordinating role, such as chairing interagency committees, as well as the preparation of papers on various subjects for the President, reflecting the positions of the involved agencies.¹³⁰ Prior to her service in that position, Walker had served as a CIA analyst, an assistant to CIA Director William Colby, an assistant to Secretary of State Henry Kissinger, a member of the Policy Planning Staff during the Carter Administration and as Director of the Office of the UN and European Arms Control during the second term of the Reagan Administration.¹³¹ She left the NSC at the beginning of July, 1994, to prepare for her current position as US Ambassador to the Czech Republic.

Galbraith, Redman and Walker have given conflicting statements or testimony as to the content of the April 29, 1994 telephone conversation. As noted earlier, Redman has testified he did not discuss the Tudjman question with Walker. When Galbraith was talking

¹²⁷ Herrick Dep. at 24-31.

¹²⁸ Redman Dep. at 37-46.

¹²⁹ Select Subcommittee Interview of Jerome Walker, Aug. 21, 1996, at 4 (hereinafter "Walker Int.").

¹³⁰ Id.

¹³¹ Id.

to Walker, Redman could not hear Walker's side of the telephone discussion. Galbraith told Redman, after the call's completion, that Walker said that Anthony Lake had given the "no instructions" instruction with a smile and raised eyebrows.¹³²

Galbraith, in describing the content of the telephone conversation, has also stated that Walker advised him that Lake's instructions to him were to say that he had no instructions, but that Lake had said this "with raised eyebrows and a smile."¹³³

Walker's recollection of the telephone conversation with Galbraith and Redman is that it occurred after she became aware that Galbraith had received the "no instructions" guidance, and after President Tudjman had first posed the question. She also recalls her discussion of the Tudjman question to be an "add-on" to a conversation she had in a regular series of conversations with Redman regarding Bosnian issues. Typically in these calls, Redman would discuss his thoughts and observations regarding the Bosnian Civil War negotiations and check the "mood music" in Washington, that is, what the policy makers in Washington were thinking.¹³⁴

Walker recalls that Redman informed her during the call from Zagreb that Galbraith had received instructions from the Department of State which both "surprised and troubled" Redman and Galbraith. Redman then put Galbraith on the telephone. Galbraith told her that State had instructed him to respond to President Tudjman's question about the US position on the transshipment of Iranian arms to Bosnia through Croatia by saying that the US was going to comply with the arms embargo on Bosnia and that the United States assumed Croatia would also comply. Galbraith expressed his belief that such a response would reflect a change in US policy, and that the response would cause problems related to the newly created Federation.¹³⁵

Walker told Galbraith that it was her understanding at the time that Galbraith was to respond to the Tudjman question by advising that the US would comply with the

¹³² Redman Dep. at 46-50.

¹³³ Memorandum to the File, from Ambassador Peter Galbraith, May 6, 1994 (hereinafter "Galbraith Memorandum").

¹³⁴ Walker Int. at 1.

¹³⁵ Id.

embargo, but that Galbraith had no instructions as to Croatia.¹⁴⁶ Given the discrepancy, she took up the matter with Anthony Lake. Lake told Walker to tell Ambassador Galbraith that he would be receiving the "no instructions" instruction. Although she has no specific recollection of passing this information on to Galbraith, Walker doubts that she said that Lake had smiled and raised his eyebrows when conveying the "no instructions" message to her, as that is not something Lake would do or something that she would say. She also believes she did not indicate in that conversation that the no instructions matter had been decided in a meeting with the President, as she was never a party to any presidential discussions on the issue.¹⁴⁷ She also does not recall discussing ordinance demolition issues with either Redman or Galbraith.

Following the telephone conversation with Walker, Galbraith's mood and approach changed as he and Redman prepared for the dinner meeting scheduled for that evening with President Tudjman. Ambassador Galbraith rehearsed a number of embellishments of the simple "no instructions," and he decided that he would try to explain the response to Tudjman by saying, "Pay attention to what I don't say as well as what I do say. I am not saying yes or no." Redman and Galbraith believed that they could not say "no" because that response would hurt the Federation, and that they could not say "yes" because of the embargo. Galbraith was satisfied with his guidance from Walker and his planned embellishment as the two of them departed for the Tudjman dinner.¹⁴⁸

The dinner meeting on the evening of April 29, 1994 was held at the Presidential Palace in Zagreb. As expected, President Tudjman asked the US position on the transshipment of Iranian and other arms to Bosnia. According to Galbraith,

Galbraith has stated that in reply to Tudjman's question and remarks, he stated that the statement from the day before still stood. Galbraith said he had no instructions from Washington on the issue, and urged President Tudjman to focus not only on what he had said, but also on what he had

¹⁴⁶ Id.

¹⁴⁷ Walker Int. at 2.

¹⁴⁸ Redman Dep. at 48-50.

not said.¹⁴⁹ President Tudjman was apparently still confused. He pulled Redman aside and asked again. Redman responded by telling President Tudjman, "It's your decision. We don't want to be in a position of saying no."¹⁵⁰ Following this exchange, President Tudjman seemed satisfied with the answer and as later events confirm, the Coalition Government concluded that the United States had given its approval to the Iranian arms conduit. Redman fully expected that, after hearing what he and Galbraith had said, the Croatians would go ahead with the arms pipeline.¹⁵¹

After the meeting and dinner at the Presidential Palace, Galbraith and Redman discussed whether to report on the conversation by cable. Redman suggested that, because he was traveling back to Washington the following day, he could convey the events orally, in person, to National Security Advisor Lake.¹⁵² One of Redman's objectives in reporting back to the National Security Council on the events was to make sure that officials back in Washington understood that the arms pipeline would most probably open.

On his arrival in Washington, Redman met with Lake and brought him up to date on the Contact Group and the April 29 Tudjman meeting. According to testimony provided to the Select Subcommittee by Redman, Lake was not surprised about the meeting and indicated that he understood the results of the exchange. He expressed no reservations about what had been said, and posed no questions to Redman about it. Lake made it clear to Redman that the President had been involved in the decision and had himself personally decided on the response to Tudjman. Lake also informed Redman that there was no need to report in writing on the April 29 conversation with Tudjman.¹⁵³ Anthony Lake, when interviewed by the Select Subcommittee, stated that he vaguely recollects meeting with Redman on this matter. Although Redman has testified that Lake showed no surprise when told what Galbraith and Redman said to Tudjman, Lake opined that he has a memory of vaguely stating to all within earshot within a week of the Nixon funeral that "no instructions means no instructions." He offered during his interview that the

¹⁴⁹ Galbraith Memorandum.

¹⁵⁰ Redman Dep. at 50-56.

¹⁵¹ Id.

¹⁵² Id.

¹⁵³ Id.

response may have been made after Redman told him about the comments to Tudjman.¹⁵⁴ On or about May 2, 1994, Redman told Ambassador Galbraith by telephone of Lake's direction not to report in writing on the issue.¹⁵⁵

On April 30, 1994, the day after the dinner meeting with President Tudjman, press reports indicated that Croatian Prime Minister Vukotic and the Bosnian Deputy Prime Minister Bukvic had arrived in Iran separately on April 29, 1994.¹⁵⁶

Galbraith had known in advance of the Vukotic tip and was concerned that if the US did not clearly get its "non-objection" across to the Croatians regarding the Iranian arms pipeline, the tip could be cancelled.¹⁵⁷

[REDACTED]

On May 1, the Secretary's Morning Summary mentioned the press reports of more economic cooperation between Croatia, Iran and Bosnia, commenting that this cooperation would strengthen the Federation, but also give Iran a greater foothold in the former Yugoslavia.¹⁵⁸

By this time, it was becoming obvious that the response to the Tudjman question had avoided Galbraith's fears of derailing the Croatia-Iran arms pipeline and the economic

¹⁵⁴ Lake Int. at 2.

¹⁵⁵ Galbraith Memorandum.

¹⁵⁶ [REDACTED]

¹⁵⁷ Vershbow Dep. at 30-33; Vershbow Notes.

¹⁵⁸ Department of State "Morning Summary," Apr. 30, 1994.

¹⁵⁹ Department of State "Morning Summary," May 1, 1994.

¹⁶⁰ Department of State "Morning Summary," May 2, 1994.

deal between those countries. The pipeline was open. In the words of Alexander Vershbow to Ambassador Galbraith on May 5, 1994, "You and Chuck have taken it exactly where we want to be."¹⁶¹

Mine Shaft Canary

A period of confusion, second thoughts and miscommunication regarding the wisdom and execution of the "no instructions" instructions began on Monday, May 2, 1994. As noted earlier, it was on May 2 that Redman informed Ambassador Galbraith that he had spoken with National Security Advisor Lake and that Lake had said that there was no need to report in writing on the April 29 meeting with President Tudjman. Both Redman and Galbraith have stated they believe that Lake was satisfied with the manner in which the "no instructions" message was conveyed. Ambassador Galbraith expressed through his actions and words in the next few days no reluctance to assure that the Iranian arms pipeline would become operational.

Also on May 2, Ambassador Galbraith met with the his [REDACTED] and instructed him to use his [REDACTED] to advise the Croatians that it was US policy to have no position as to the enforcement of the UN arms embargo. He explained to the [REDACTED] that he and Redman had already conveyed the "no instructions" message to President Tudjman on instructions from Washington. The [REDACTED] asked Ambassador Galbraith if the response given would not send the message to the Croatians that they could go forward with bringing Iranian weaponry into the area. Galbraith said that Washington was aware of this and that he had done all that he could to let the Croatians know that the United States would look the other way, without actually saying so.¹⁶²

Disturbed by this unusual and potentially dangerous shift in policy, the [REDACTED] asked to see the Ambassador's instructions. When Ambassador Galbraith said his instructions came telephonically from the National Security Council, the [REDACTED] replied that he would need guidance from his headquarters before he could use his [REDACTED] to convey such a message to the Croatians, since such an action might be considered a covert action. Galbraith became angry and "ordered" the [REDACTED] to convey the message. Again, the [REDACTED] refused to act as directed.

¹⁶¹ Galbraith Memorandum.

¹⁶² [REDACTED]

stressing the need for guidance given the legal and oversight issues.¹⁰⁸

The agitated Ambassador questioned what right the [redacted] had to block the policy of the President. The [redacted] responded that he was not attempting to block policy, but that he needed to see some sort of written instructions from the President or at least consult his headquarters first. Galbraith continued his argument with the [redacted] and by declaring that "Tony Lake had wanted to know why they [redacted] and why the [redacted] and Susan [redacted] respectively that the US Defense Attache Herrick had told the [redacted] and [redacted] replied with a number of reasons, among them the fact that President Clinton had reaffirmed that policy in a statement on April 20, 1994. Frustrated by his inability to change the [redacted] mind, Galbraith ended the conversation.¹⁰⁹

Shortly after this discussion, Deputy Chief of Mission Netizke informed the [redacted] that Galbraith had never actually spoken to Anthony Lake, and that he (Netizke) had advised Galbraith not to push the "policy line." Netizke also characterized the Ambassador as being in a "Capitol Hill mode," making policy, cutting deals and maybe getting out ahead of Washington on the policy issue.¹¹⁰ Subsequent discussions with Netizke revealed to the [redacted] that, as of May 4, 1994, the Embassy had still not received any written guidance on the Iranian arms issue. Netizke also expressed his understanding that the failure to issue written instructions had been deliberate for reasons of establishing deniability.¹¹¹

On May 4, 1994, disturbed by the dangers of the Iranian green light decision, and concerned as to whether it truly was the US policy, the [redacted] sought guidance from his headquarters in a cable which summarized his conversations of May 2 with the Ambassador. With the memory of the Iran-Contra scandal still fresh, [redacted] wisely and fortuitously began to function, [redacted] as a "true shaft canary," assuring that activities and events were carefully documented in this sensitive area of

[redacted] [redacted] [redacted]

¹⁰⁸ Ambassador Galbraith had served for over a decade on the staff of the Senate Foreign Relations Committee.

quest-covert activity.¹¹² On May 5, 1994, the [redacted] was advised that he should continue to refrain from using his [redacted] to influence Croatian policy towards embargo busting unless he was specifically instructed otherwise. He was further commended with a "well done" and advised that perhaps a telephone call from Woolsey to Lake was in order.¹¹³

On that same date, May 5, 1994, the [redacted] raised with Ambassador Galbraith, the issue of his request to use [redacted] and invited him to send a message to [redacted] about it. The Ambassador indicated that the [redacted] would no longer be necessary, as the "ball is rolling." He also stated that he saw no need for him to send a message on the matter to [redacted]. The [redacted] also met with Netizke on that day, and Netizke filed him in on his understanding of the events of April 29 at the Presidential Palace. He related that Galbraith had been told to tell Tudjman that he had no instructions regarding the enforcement of Croatian compliance with the arms embargo and to "smile when he said it."¹¹⁴ Netizke added that after the Ambassador conveyed this remark, President Tudjman still missed the point and went for a walk with Redman. Redman then told Tudjman that the United States did not want to be put in the position of having to say "No" on the issue. According to Netizke's version, all concerned understood that the arms shipments were to come from Middle Eastern countries, principally Iran.¹¹⁵

During that same discussion, Netizke informed the [redacted] that it was his further understanding that Galbraith had been told by the National Security Council that reports of the Tudjman discussion were not to be put on paper and that the Ambassador's job would be impeded or forfeit if it was. Sensing the irregularity of the situation, Netizke had urged the Ambassador to write a memorandum on the incident for the Ambassador's protection. To Netizke's knowledge, the Ambassador had not yet done so as of May 5. The [redacted] asked Netizke why, if the policy was defensible as a means of helping the Bosnian Muslims, it should not be put in writing. Netizke's understanding, based on

[redacted] [redacted] [redacted]

¹¹² [redacted] [redacted] [redacted]

his conversations with the Ambassador, was that either those involved in the decision had failed to fully coordinate with their superiors or did not wish for the incident to be the subject of coordination with the Department of Defense or CIA. Throughout this May 5 discussion, Neitzke was very concerned and anxious that if any of this information got out to the national security community, the "White House" would "have their heads." [redacted] expressed support for Neitzke's plan to push Galbraith to write a memorandum. Despite Neitzke's misgivings about sharing these events and concerns with other government agencies, [redacted] reported on his May 5 discussions with Galbraith and Neitzke to his headquarters.¹⁷¹

Ambassador Galbraith began to share the concerns of Neitzke and [redacted] He spoke by telephone with Sandy Vershbow at least once, maybe twice on May 5, 1994. Although Vershbow and Galbraith denied during the course of the Select Subcommittee's investigation that Vershbow rebuked, reprimanded or criticized Galbraith for his conduct in the "no instruction" exchange, evidence of Galbraith's contemporary reaction to his discussions with Vershbow and other State officials establishes that he was verbally chastised for his conduct.¹⁷² As late as July of 1994, Galbraith was still angry over having had his "knuckles rapped" by State and having been called on the carpet for his conduct in giving the "no instructions" message.¹⁷³ Galbraith claims that on May 5, he informed Vershbow of the content of his and Redman's statements to Tudjman, and that Vershbow told him that "you and Chuck have taken it exactly where we want to be, adding that "at the highest level we do not wish to interpose ourselves between the Iranians and the Croatsians."¹⁷⁴ Galbraith's later admissions reveal that the conversation with Vershbow was not as reassuring as he now portrays it.¹⁷⁵

Later that evening on May 5, 1994, after a meeting at his residence with Defense Attaché Herrick, Neitzke and General George Jouhven (Commander-in-Chief of the US European Command), Ambassador Galbraith asked Herrick to take him back to the Embassy for purposes of making a secure phone call. Galbraith got through to Washington shortly after midnight, Zagreb time. The available evidence suggests that he

¹⁷¹ [redacted]

¹⁷² [redacted]

¹⁷³ [redacted]

¹⁷⁴ Galbraith Memorandum.

spoke with Jenomne Walker at the NSC. Herrick overheard him asking whether his response to Tudjman was proper policy. He mentioned the rebuke he received from Vershbow and commented that, as an Ambassador, he worked for the President, not the Department of State. Galbraith repeated that he had given the Croatsians a wink and a nod at the direction of the NSC and that Redman had done a good deal more than that. He asked whether the US was ready to back him and Croatia on this issue. Herrick also heard Galbraith state during the call that the [redacted] and Herrick had reported on the issue, and there was no guarantee that it would not get out.¹⁷⁶

Having been advised of the previous month's unusual events in Zagreb, officials [redacted] were not at all certain that Ambassador Galbraith's activities had been properly coordinated or were taking the United States anywhere near it wanted or ought to be. On May 5, 1994, Headquarters advised the [redacted] to continue to resist Galbraith's request to the use of [redacted] officials [redacted] arranged to have R. James Woolsey, Director of Central Intelligence, raise the events in Zagreb with Secretary of State Warren Christopher at a meeting on May 5, 1994.¹⁷⁷

The conversation at the May 5 meeting has been the subject of slightly conflicting testimony, as have been the recollections of the participants as to the reasons for the meeting, and the impressions it left. It is undisputed, however, that Woolsey and Deputy Director for Intelligence Doug MacEachin were present at the meeting for the CIA, and that Secretary Christopher, Deputy Secretary司徒 Talbot and Ambassador Phil Wilcox of the Department of State also attended. The recollection of the CIA participants, assisted by a memorandum for the record the CIA notetaker prepared immediately after the meeting,¹⁷⁸ is that Woolsey raised the issue by describing the reports from the [redacted] that Ambassador Galbraith was urging him to use [redacted]

No the Croatian government that the US would look the other way from Croatian transshipments of arms from Iran to Bosnia. Woolsey informed the attendees that he had also given this information to National Security Advisor Lake.¹⁷⁹ Secretary Christopher said nothing in response. Talbot replied that he had been called by Deputy National Security Adviser Samuel Berger after Woolsey's call to Lake. He then informed Woolsey of the situation in Zagreb from the perspective of the

¹⁷⁶ Herrick Dep. 32-39; [redacted] May 9, 1994.

¹⁷⁷ [redacted] May 5, 1994.

¹⁷⁸ CIA Document, Memo for the Record by Douglas MacEachin, May 5, 1994.

Department of State. Talbot said that Galbraith had been told twice (once before his meeting with Tufman and once after) that he had "no instructions" as to Tufman's question. After the first meeting with Tufman, Galbraith contacted the Department of State and requested more in the way of instructions, seeking something on the order of an "amber light." Talbot indicated to the attendees that Galbraith had been told "amber light" that he should stick to his "no instructions" statement with nothing more. He had been told that he was not to hint at having any "wiggly room." Talbot further commented that Galbraith was apparently not absorbing the message and would be informed again so he could not misunderstand. Woolsey was not informed of any change in United States policy during the meeting, and left with the impression that no such policy change had occurred.¹¹⁶

Talbot recalls the conversation essentially as does Woolsey, and has testified publicly that, in his view, the "no instructions" message to Ambassador Galbraith had not been a "change in policy," hence there was no discussion of such a change at the meeting.¹¹⁷ He did not at the time appreciate the "disconnect" in his communications with Woolsey.¹¹⁸

Doug MacEachin, who served as the CIA notetaker at the meeting described the discussion in these terms:

[O]ur Ambassador is asking our [redacted] to take an active step to permit an arms shipment that we -- that I go to meetings on, that we are supposed to be against. What's going on here? . . . and that's the way I heard Woolsey present it, saying you know, is your ambassador being too ambigious, or has there been a change? And Talbot said, . . . I've checked everything that he has been told and it's unambiguous. He has been told no instructions, he is not to indicate any wiggly room . . . He apparently hasn't gotten the message and we are going to give him the message again.¹¹⁹

¹¹⁶ *Id.*, [redacted] May 6, 1996; House Permanent Select Committee on Intelligence Deposition of R. James Woolsey, June 6, 1996, at 10. ~~ES~~

¹¹⁷ Hearing On US Arms Regarding Iran, Arms Shipments Isha Basaria Before the Senate Select Committee On Intelligence, 104th Cong. 86-89 (May 23, 1996) (Testimony of Strobe Talbot).

¹¹⁸ Select Subcommittees Deposition of Douglas MacEachin, Sept. 6, 1996, at 66.

When leaving the meeting, Ambassador Wilcox stated that Ambassador Galbraith was (or was going to be) in trouble with his "boss."¹²⁰

The events at the May 5, 1994 Woolsey-Talbot meeting were conveyed to the [redacted] by cable on May 6, 1994. He was further advised that there had been no change in US policy, and that [redacted] would advise the [redacted] if and when any such change occurred.¹²¹ The cable by which he received this information also commended the [redacted] for his excellent judgment under intense pressure and for having kept headquarters well-advised of events.¹²²

In Zagreb, the Woolsey-Talbot meeting had an unsettling impact on Ambassador Galbraith and Deputy Chief of Mission Neitzke. On May 6, 1994, Deputy Secretary Talbot spoke with Galbraith by telephone. Three versions of this telephone conversation have been given during the course of this investigation. Galbraith set forth one version of the conversation in an almost contemporaneous written memorandum he prepared on May 6, 1994.¹²³ Talbot testified regarding the conversation, both publicly and in closed session. Moreover, contemporaneous notes taken by Sandy Vershbow of a conversation between Talbot and Vershbow contain another version of the Talbot-Galbraith discussion.¹²⁴ From the aforementioned sources, it appears that the substance of the conversation between Talbot and Galbraith was as follows.

Mr. Talbot, after his meeting with Woolsey, had a concern that "something more than and other than no instructions was being transmitted."¹²⁵ As a result of the uncertainty over the policy, he had a concern that the right signal had not been sent to the Croats. He telephoned Ambassador Galbraith on May 6 to try to address that concern. During the discussion, Galbraith informed Talbot of the instructions he had received from Jerome Walker, and the remark about Tony Lake smiling and raising his eyebrow. Talbot informed him that his instructions on the Tufman question had been "no instructions" and that the

¹²⁰ *Id.*, at 19.

¹²¹ *Id.*, [redacted] Dep. 41-42. ~~ES~~

¹²² Galbraith Memorandum.

¹²³ Vershbow Dep. at 73-81; Vershbow Notes.

¹²⁴ Talbot Dep. at 14.

Administration did not want word to get out that the US had given a green or amber light to the Croatiens. Galbraith recounted exactly what he and Redman had said to President Tudjman on the issue, and explained that anything short of a statement that the Croatiens should not facilitate the Iranian arms flow would be understood as a "green light" from the United States.¹⁴⁷ He informed Talbot that the Croatiens, if corrected, would put out the word that we had given a green light, especially since the arms traffic would be picked up by NATO and UNPROFOR. Galbraith also noted that the Croatiens would view this new statement of position in the context of the interception of the 1992 Iran Air shipment and the seizure of a Croatian vessel smuggling arms just a few weeks earlier.¹⁴⁸

Ambassador Galbraith recalls Talbot stating in the telephone conversation that the United States wanted to do nothing that would undermine the "fragile" Muslim-Croat Federation, but it also did not want to be seen as undermining the arms embargo. Talbot told Galbraith that he was doing an excellent job, and that he had carried the messages on the issue with great skill given the confusion in Washington. Talbot opined that the "horns office had not distinguished itself." Talbot was also curious as to whether the United States could "walk this situation back." By this statement, Talbot now claims that he meant "walking it back would mean make sure that the Croatiens aren't reading more into this than we are saying."¹⁴⁹ Galbraith replied that to do so would be almost impossible unless the US wanted to cut off the flow of arms. When Galbraith said that he had been told not to report on the Tudjman exchange and asked if Talbot wanted a written report, Talbot said, "Yes," but he should not send one unless contacted by Vershbow or Assistant Secretary Oxman.¹⁵⁰

Ambassador Galbraith, troubled by his telephone conversation with Talbot, approached the [redacted] on that same date. He asked the [redacted] what "exactly" he had shared with [redacted] on the Iranian arms issue. The [redacted] replied that he had reported Galbraith's request that he use the [redacted]

¹⁴⁷ The notes and testimony of Sandy Vershbow indicate that when Mr. Talbot recounted this conversation with Galbraith to Mr. Vershbow, he described Galbraith's remark to President Tudjman as "no instructions, yet we don't want to interpose ourselves, so call attention to what I didn't say." Vershbow Dep. at 73-81.

¹⁴⁸ Galbraith Memorandum.

¹⁴⁹ Talbot Dep. at 25-30; Galbraith Memorandum.

¹⁵⁰ Galbraith Memorandum.

to convey the "no instructions" message. Ambassador Galbraith was very curious about the language used and any knowledge that the [redacted] had about the May 5 meeting between Talbot and Woodsey. Galbraith stated that Talbot had contacted him to tell him that Woodsey stated that he thought, based on the [redacted] information, that the "high sign" for the Iranian arms pipeline was given by Galbraith and Redman. The [redacted] replied that he told his headquarters about the "no instructions" message and how, in combination with intelligence available, it amounted to a "go-ahead." Galbraith acknowledged the truth of this statement.¹⁵¹

The [redacted] reminded Ambassador Galbraith that this confusion was part of the danger of pushing an uncoordinated policy line and the consequence of not informing the [redacted] of what was going on. He brought to the attention of the Ambassador a recent tasking request from the Department of Defense on May 5 seeking information on Iranian arms shipments into Bosnia and what could be done to stop them.¹⁵² The Ambassador characterized this request as the Department of Defense just trying to find out what was going on, and the [redacted] readily agreed, noting that the Defense officials ought to be informed as to this issue.¹⁵³

The two discussed the fact that foreign and allied intelligence sources were taking an interest in the Iranian-Croat deal, and the [redacted] predicted that any decent foreign intelligence service would be able to "walk this issue back," given the unreliability of the players. Ambassador Galbraith ventured his opinion that this issue was not as serious a matter politically as Iran-Contra. The [redacted] answered that, if this were so, why had no written instructions been provided? He further urged Galbraith to create a memorandum of his conversations about his instructions, for his own protection.¹⁵⁴

Ambassador Galbraith took to heart the advice of Netzke and the [redacted]. On May 6, 1994 he created a written memorandum for record, setting forth his version of the discussions with President Tudjman, NSC officials, State Department officials and Redman. His secretary, Charlotte Stodman, typed the memorandum, and it was signed

[redacted]
[redacted]
[redacted]
[redacted]

and dated by Galbraith, and by Neitzke, as a witness.¹⁵⁸ After the document was signed in front of Stoltman, she sealed it in an envelope and locked it in the Ambassador's safe. The Ambassador told Stoltman that the memorandum was for his own protection because of events which had taken place where he had received instructions over the telephone from Washington. The memorandum would serve as his proof of the events which occurred. The memorandum remained in the safe until Captain David Wesley, working for the President's Intelligence Oversight Board, asked to have it read to him in the winter of 1994-1995.¹⁵⁹

"Hunker Down"

May 6, 1994, was also a day of worry and second thoughts about the Iranian green light in Washington, D.C. Deputy Secretary Talbot and Vershbow discussed Talbot's conversation with Ambassador Galbraith. Talbot recounted his directive to Galbraith to "walk it back" - if he could to "no instructions" only. He pointed out that Galbraith had received mixed signals, hearing both that Washington had not made a decision and that he had no instructions. Talbot worried that the US needed to "get the right signal on the record," but that it might be too difficult to do so. In evaluating the available courses of action, Talbot stated that perhaps they would have to "hunker down" and let things stay as they were. Talbot told Vershbow that he had decided that, if anything were put in writing, there should be only one copy. Talbot feared that public disclosure of what had happened would create serious difficulty with the United States' allies.¹⁶⁰

On May 6 or May 7, Talbot and Vershbow discussed the rapidly growing concerns at the National Security Council about the "no instructions" events. Talbot reported that he had met with Deputy National Security Advisor Berger. Berger, on the subject of the "no instructions" events, stated that he thought it would be "dynamic to do a record," meaning that there should be no paper trail.¹⁶¹ In his remarks to Vershbow, Talbot also

¹⁵⁸ Galbraith Memorandum.

¹⁵⁹ Stoltman Dep. at 26.

¹⁶⁰ Vershbow Dep. at 73-81; Vershbow Notes.

¹⁶¹ Vershbow Dep. at 92-94; Vershbow Notes. When interviewed by the Select Subcommittee Staff, Mr. Berger did not specifically recall making this remark, but speculated that if he said it, it may have been in reference to potential damage to relations with our allies. Berger Int. at 2.

made reference to Jenome Walker's being disciplined.¹⁶² Although Walker, when interviewed by the Select Subcommittee Staff, denied having been disciplined or criticized by any of her superiors at the NSC, she did reveal that when she approached Berger with a request from Ambassador Galbraith that he receive his instructions in writing, Berger replied with words to the effect of "Damn it, Jenome! Shut up! He is not going to get his instructions in writing, he has his instructions."¹⁶³ Contrary to later public and private contentions that the Iranian green light policy was a sound and well executed, the doubts and near panic regarding its wisdom and impact were very much in evidence in May 1994.

The panic was also growing in Zagreb. On May 6 or May 7, Neitzke spoke with the [redacted] about his concerns over recent events. Neitzke told the [redacted] that Galbraith had talked to Talbot on May 6 and that the Washington officials were denying that they ever intended to indicate acquiescence to the Iranian-Croatian dealings. They also reportedly could not believe that the Croatians so indiscreetly allowed so many Iranian deliveries so quickly. Neitzke felt that the Ambassador was worried about being made a scapegoat for the green light decision. Galbraith spent a good portion of May 6 on the secure phone with Redman and Washington.¹⁶⁴

Within the next week, on May 12, 1994, Ambassador Galbraith sought the [redacted] view on the [redacted] understanding of the US policy on Iranian arms transshipments. He was especially interested in anything that the [redacted] might know about the discussions between Woodsey and Lake on the issue. The [redacted] advised Galbraith that he had heard nothing new. Galbraith also stated that he had received a phone call from a reporter regarding Iranian arms on May 11, but that he had responded with a "no comment."¹⁶⁵ On that same day, Neitzke told the [redacted] that Galbraith had received an apology from the NSC for being left out on a limb, and that policy was, indeed, the walk and nod approach.¹⁶⁶ Defense Attache Herrick also advised

¹⁶² Vershbow Dep. at 92-94; Vershbow Notes. In his deposition testimony, Vershbow indicated that perhaps Jenome Walker had been disciplined for conveying the position to Galbraith and her remarks about the arms and raised eyebrows. Walker denied ever being disciplined.

¹⁶³ Walker Int. at 3.

[redacted]

that he was receiving numerous calls from the Department of Defense on the Iranian arms issue, and that the Department of Defense was in the dark, wondering what was going on.²⁰⁴ From the vantage point of Zagreb, there appeared to be confusion among the departments in Washington on this new policy, and a lingering fear in the Embassy that Washington might disavow the Ambassador's activity.²⁰⁵

The Iranians and Croatians had wasted little time in turning on the arms pipeline. As the Embassy Zagreb Public Affairs officer would later testify, the sudden and open presence of Iranian arms flights was quite "provocative."²⁰⁶

[REDACTED]

Western journalists noted the sudden appearance of Iranian aircraft in Croatia.²¹¹ On May 25, after seeing one newspaper story in the Washington Post concerning Iranian arms shipment to Croatia, Fred Baron, a US Representative to the UN Security Council Committee Established Pursuant to Resolution 724 (1991) Concerning Yugoslavia, suggested at a meeting of the Committee that the Committee should look into the alleged

²⁰⁴ [REDACTED]
²⁰⁵ Hovanec Dep. at 22.

²⁰⁶ [REDACTED]
²⁰⁷ [REDACTED]
²⁰⁸ [REDACTED]
²⁰⁹ [REDACTED]
²¹⁰ [REDACTED]
²¹¹ [REDACTED]

violations of the arms embargo by Iran.²¹² Clearly the US representatives serving on various UN bodies concerned with arms embargo issues were not advised of the Iranian green light policy. Fortunately in light of the potential for embarrassment, Secretary Ngobi of the Committee advised that he had already sent letters to the Governments of Croatia and Bosnia asking them to investigate the story, as well as a letter requesting a response from Iran. The US was spared the ordeal of being exposed as a hypocrite.²¹³

A UN Sanctions Committee team traveled to Zagreb in May 1994 to investigate the delivery of Iranian arms through Croatia. The British had expressed concern about these arms embargo violations. In late May of 1994, Ambassador Galbraith informed the [REDACTED] that the investigation had been inconclusive.²¹⁴ It is readily apparent that Galbraith had not gone out of his way to assist the visiting UN investigators.²¹⁵

In addition to the CIA and the United Nations, the Department of Defense, then involved in the interdiction of arms embargo violators, was not informed of the US tolerance or complicity in the Iranian arms pipeline, let alone the Iranian green light policy decision. As of May 5, 1994, the Secretary of Defense had requested that the CIA provide information relative to the clandestine arms shipments to the Bosnian Muslims.²¹⁶ As noted earlier, as of May 12, 1994, Defense Attache Herrick was also receiving inquiries from the Department of Defense Iranian arms shipments.²¹⁷

Department of Defense interest in the issue reached a crescendo on approximately May 13, 1994. On the eve of a Principals Meeting²¹⁸ in Washington, the Defense

²¹² Provisional Summary Record of the 104th Closed Meeting of the Security Council Committee Established Pursuant to Resolution 724 Concerning Yugoslavia (1991), at 11-12.

²¹³ Id.
²¹⁴ [REDACTED]
²¹⁵ [REDACTED]
²¹⁶ [REDACTED]
²¹⁷ [REDACTED]

²¹⁸ A meeting of cabinet level national security officials, usually consisting of at least the Secretaries of State and Defense, the National Security Advisor and, frequently, the DCI.

Attache's Office in Zagreb was contacted with frantic calls from the Pentagon seeking information on the Iranian arms flow for use in briefing Secretary William Perry. As Herrick was absent from the Embassy at the time, his assistant sought advice on how to respond from the [redacted]. That [redacted] advised him to wait for Herrick's return. Ambassador Galbraith asked the [redacted] what the [redacted] instructions were on responding to the requests for information. The [redacted] responded that he was not to get involved in the matter or raise it in his [redacted]. Galbraith commented that the Department of Defense should get "on board," and added that he was covered on the issue, as he was following instructions from the White House.²¹⁸ Neitzke, upon learning of the Pentagon inquiries, expressed his desire to talk to Herrick before he communicated anything back to the Pentagon.²¹⁹ Evidence further suggests that upon Herrick's return to the Embassy, Galbraith told him not to respond to inquiries from Washington on the Iranian arms issue beyond references to press or intelligence reports already available.²²⁰

The suspicions of the Ambassador, the [redacted] and Neitzke that the Department of Defense had not been advised of the Iranian green light policy, provoked anxious discussion on July 21, 1994 regarding an imminent visit to Croatia by Secretary Perry. Ambassador Galbraith asked the [redacted] whether or not Croatian Prime Minister Valentic (a significant figure in the Iran-Croatia relationship) should be invited to have lunch with Secretary Perry. The [redacted] ventured his opinion that to do so could create an awkward situation if, as they all suspected, Secretary Perry had not been informed of the Iranian green light/no instructions decision. The Ambassador wanted to discuss the matter further in the Secure Conference room at the Embassy. In that discussion, Galbraith stated that he was tired of the CIA and Department of Defense running a separate foreign policy from that of the Department of State, the NSC and "probably" that of the President on the Iranian arms issue. The [redacted] disagreed with Galbraith and pointed out that the Director of Central Intelligence had been repeatedly told by the Department of State that the "ink and nod" was not US policy.²²¹

Galbraith asked the [redacted] whether he thought Secretary Perry might raise
 218 [redacted] 7/6/94
 219 [redacted] 7/6/94
 220 [redacted] 7/6/94
 221 [redacted] 7/6/94

the Iranian arms issue. The [redacted] said that he could not speak for the Secretary of Defense and opined that Galbraith was probably better placed to guess what might have been happening back in Washington. Galbraith responded that he thought he knew what went on, and that he, in any event, had acted on instructions. The discussion then turned to the subject of the Ambassador's concern that Croatian Defense Minister Susak might raise the issue with Secretary Perry, and how Susak might react if the Secretary told him that the arms embargo remained in force. The [redacted] replied that although Susak would be confused, he would probably continue the Iranian shipments. Defense Attache Herrick had the final word on the issue, when asked if there was "target" at the Department of Defense over the issue and whether Galbraith should raise it with Secretary Perry. Herrick replied that the level of concern at the Department varied. Herrick also advised Galbraith raising the issue with Secretary Perry, warning that it might open up Pandora's Box.²²²

Unbeknownst to the participants in this meeting, Secretary Perry had already flipped open the proverbial lid on Pandora's Box, only to have it slammed shut by Anthony Lake. In June of 1994, Secretary Perry met with Lake, asking for clarification regarding why the US had not taken action to block the Iranian arms shipments to Croatia. According to a Department of Defense official, Lake replied that he was tired of hearing about the issue and that the shipments would be permitted to continue. Secretary Perry was upset about the situation and Lake's response.²²³

Others in high positions at the Department of Defense were also in the dark about the green light. From April 1994 to June 1996, General Wesley Clark served as the J-5, that is, as Director of Strategic Plans and Policy on the Joint Staff at the Pentagon. As the J-5, General Clark was the staff officer who advised the Chairman of the Joint Chiefs of Staff on US military policies worldwide. In April and May of 1994, General Clark was neither consulted nor informed of the Iranian green light decision. Although aware in May of 1994 that there was an influx of arms into Bosnia, he did not know the reason for it or that the US was involved with it. His understanding was that US policy was to enforce the UN arms embargo, and he regularly saw reports indicating that the embargo was, in fact, being enforced.²²⁴

222 [redacted] 7/6/94
 223 [redacted] 7/6/94
 224 Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 3-8.

noticed the flow of Iranian arms and personnel, and were ready to shut it down. Between early May 1994 and the effective date of the Nunn-Mitchell legislation in November 1994, the Administration had several opportunities to halt or mitigate the Iranian arms flow and failed to take advantage of them. By September 1994, some leaders of the Bosnian Muslims, the very people that the Clinton Administration hoped to assist through the Iranian arms pipeline, asked US officials to find a way to arm them that did not involve the Iranians. The Administration did nothing, though, to staunch the growth of Iranian influence.

Information regarding the Iranian arms shipments and the consequences of those shipments was frequently included in the Secretary's Morning Summary prepared by the Bureau of Intelligence and Analysis (INRA) at the Department of State. When the pipeline opened, the Morning Summary for May 14, 1994, commented that, "Though there seems little doubt that regular arms-supply flights to Croatia are under way, it is not clear how long they can be kept from becoming public knowledge or prompting reaction from the international community."²²²

~~_____~~
~~_____~~
~~_____~~²²³ On the eve of an important Principals Meeting on May 20, the Secretary's Morning Summary reported that:

The Croats are serving as bustling middlemen in a long-term arms-supply operation that gives Croatia a stake in the ongoing Bosnian conflict, encourages closer Croatian-Iranian ties, and provides an incentive to sneer at sanctions.²²⁴

Against this backdrop, a Principals' Meeting was conducted on or about May 20.

²²² Secretary's Morning Summary, May 14, 1994.

²²³ Secretary's Morning Summary, May 18, 1994.

²²⁴ Secretary's Morning Summary, May 20, 1994.

²²⁵ Id.

1994. A "pre-brief" meeting was held beforehand, attended by Secretary Christopher, Charles Redman, and Tom Donilon. Christopher expressed concern about the "winking and nodding" that had gone on (or was going on) regarding the flow of arms from Iran to Bosnia, and the participants discussed the pros and cons of the matter.²²⁶ The issue of the Iranian arms shipments to Croatia and Bosnia did come up at the Principals' Meeting. Some participants argued that the US should go to the Croatian government and tell them to stop the Iranian shipments.²²⁷ To the recollection of Anthony Lake, present at the meeting, no one discussed the "no instructions" decision.²²⁸ The contemporaneous notes of Jenonne Walker reflect that someone (the NSC has refused to disclose to the Subcommittee the person's identity) said that the President knew that the arms flow was happening and that the US was not taking any position with respect to it.²²⁹ Lake recalls informing the other participants that to take action on the Iranian arms shipments would require talking the issue to the President. No one suggested that the matter be reviewed with President Clinton.²³⁰

As of May 24, 1994, the interest of the Joint Chiefs of Staff in shutting down the Iranian arms flights was strong. Colonel Donald K. Herrick, assigned to the NSC, reported to Jenonne Walker on that date that during a "Bosnia teleconference" the Joint Staff suggested that something be done about the Iranian arms flights taking place. He informed Walker that he told the Joint Chiefs that the US would probably not push the issue at the time.²³¹

²²⁶ Notes of Pre-Brief Session for the Secretary of State Regarding the May 20, 1994 PC Meeting on Bosnia, prepared by John Hannah and maintained by the NSC. The NSC refuses to permit the Select Subcommittee staff to view the aforementioned document and others cited in this paragraph, and the cursory information was obtained from an oral briefing by a low level NSC staffer to Chairman Hyde and Congressman Hastings.

²²⁷ Notes of Nancy Soderberg, May 20, 1994, maintained by NSC.

²²⁸ Lake Int. at 4.

²²⁹ Notes of Jenonne Walker, May 20, 1994, maintained at NSC (hereinafter Walker Notes).

²³⁰ Lake Int. at 4; Walker Notes.

²³¹ Memo for Jenonne Walker from Don Kerrick, May 24, 1994.

[REDACTED]

In addition to the risks to intelligence activity, the Clinton Administration's efforts to keep the green light policy secret resulted in US government officials in the region, who had and overriding "need to know," being kept ignorant. The US Ambassador to Serbia was not informed of the decision, nor was the US Ambassador to Bosnia, the very country to which the arms were being funneled. ²⁵⁵ Moreover, the US Ambassador to NATO was

Verstehow, September 24, 1996.

²⁵⁵ [REDACTED]

²⁵⁶ Select Subcommittee Deposition of Rudolf V. Perina, Aug. 26, 1996, at 6; Jackovich Dep. at 20-24.

unaware of the Iranian Green Light, and was under the impression throughout 1994 that the US policy was to respect the UN arms embargo and expel other countries to do so as well. ²⁵⁶ Given the potential for Serb retaliation against American interests or personnel if the Serbs regarded the US as co-belligerents with the Croatsians or Bosnians, this secrecy, born of fear of embarrassment or detection was reckless.

Opportunities to "walk it back," that is, to dilute or eliminate Iranian influence continued to present themselves to US officials. The Croatsians and the Bosnians both expressed concerns and reservations about the dominant role played by the Iranians as the main supplier of weaponry. ²⁵⁷

[REDACTED]

In August of 1994, General Wesley Clark visited Bosnia on behalf of the US Joint Chiefs of Staff to determine Bosnian military needs if the UN arms embargo were lifted. During the course of a series of discussions with Bosnian officials, General Clark met with Bosnian President Izetbegovic and Bosnian Prime Minister Stajdzic. Izetbegovic asked Clark whether the US would "covertly assist" the Bosnians by authorizing Slovenia to release two thousand tons of weaponry the Slovenians were detaining. General Clark stated that he would pass on the Bosnian request to his superiors. He did so, informing General Shalkashvili. Shalkashvili directed General Clark to take the matter to Deputy National Security Advisor Berger at the White House. General Clark met with Berger personally and put nothing in writing about the request. Although General Clark was never specifically advised of the US response, he later saw a letter from Svet Alkalic, the Bosnian Ambassador to the United States which led him to believe that the US had denied

²⁵⁶ Hunter Dep. at 5-8.

²⁵⁷ [REDACTED]

the Bosnian request.²⁸² Berger, when questioned by the Select Subcommittee staff regarding the Bosnian request for Slovenian arms, had no recollection of the request or its ultimate disposition.²⁸³

Bosnian and Croatian interest in obtaining weapons from sources other than Iran and stemming the growth of Iranian influence in the region continued into the fall of 1994. According to Ambassador Galbraith, Defense Minister Susak informed him at lunch on September 5, 1994 that he preferred a covert program for providing arms to Croatia and Bosnia to a filing of the UN arms embargo. Moreover, Susak contended that he knew of other countries that were willing to help if the US would provide "a signal." Galbraith claims to have pointed out that the US could neither violate the arms embargo nor actively cooperate in its violation. At the same time he believed Susak understood the US would not actively stop others from violating it.²⁸⁴

Richard Holbrooke became the Assistant Secretary of State for European Affairs in September of 1994. A firm believer in taking action, he plunged into the morass of Balkan politics with a vengeance. During an early fact-finding trip to Croatia, he learned of the Iranian green light incident from Ambassador Galbraith.²⁸⁵ Holbrooke, in his previous position as Ambassador to Germany, had been aware that Iranian and other arms were flowing into Croatia and Bosnia, so he asked Galbraith what the US knew and was doing about it. Galbraith told Holbrooke that in April of 1994 that either Tudjman or Susak (Holbrooke's present memory is uncertain) called him in and told him Iran wanted to ship arms through Croatia to the Bosnians and asked what US policy was on this issue. Galbraith said he had called the White House (Holbrooke understood him to say that he had talked with Tony Lake), and was told to say he had no instructions, no position. Galbraith said he did exactly that and that someone at the NSC told him not to report back by normal channels.²⁸⁶

After hearing Galbraith's account, Holbrooke was highly concerned about the role

²⁸² Clark Dep. at 28-34.

²⁸³ Berger Int. at 3.

²⁸⁴ Galbraith Memo for September 5, 1994, from the "Record" maintained by Peter Galbraith.

²⁸⁵ Holbrooke Dep. at 6-13.

²⁸⁶ Id.

of Iran in Bosnia and the Balkans. This remained the case through the time of negotiating the Dayton Accords when he was adamant in seeking assurances that the Iranians would be required to leave Bosnia.²⁸⁷

To Holbrooke's credit, he began working on ideas to eliminate or dilute the Iranian dominance of the arms flow to Bosnia in September 1994. Bosnian Prime Minister Slijazic, for all his earlier willingness to accept arms from any country that would provide them, had changed his tune by the fall of 1994. According to Holbrooke, Slijazic made a point of telling American policy-makers at every opportunity that the Iranian arms pipeline was a "very risky thing because it would increase Iranian influence."²⁸⁸ In September of 1994, Holbrooke met with Slijazic in New York City where Slijazic floated a plan that would diminish the Bosnian Government's dependence on Iran.²⁸⁹

Holbrooke liked the idea and supported it, in no small measure because it reduced the Bosnians' dependency on Iran. Holbrooke discussed it with Secretary Christopher, who Holbrooke believes, Christopher obtained a legal opinion on the proposal.²⁹⁰

A few days following the meeting in New York, Slijazic met in Washington with Holbrooke, and Lake. Holbrooke believes that Lake heard part, but not all, of Slijazic's proposal before Lake was called out to a meeting with President Clinton. The proposal went nowhere in Washington and despite Holbrooke's advocacy, it was rejected for policy rather than legal reasons.²⁹¹

The Bosnians remained interested in alternatives to the Iranian arms pipeline even after November 1994 and the Nunn-Mitchell Amendment. Ambassador Galbraith's assistance was sought on November 23, 1994 in yet another effort to secure the release of Bosnian-bound weapons that had been seized by the Slovenes. Although asked to

²⁸⁷ Id. at 50.

²⁸⁸ Id. at 51.

²⁸⁹ Id. 41-45.

²⁹⁰ Id.

²⁹¹ Id.

intervene with the Slovenses, Galbraith said nothing to the Bosnians, noting in his memoirs that "any comment would be seen as us working to undermine the embargo" and could jeopardize the way in which the Bosnians received "real quantities" of weaponry, presumably from the Iranians.²⁶⁶

As 1994 was coming to a close, the Iranian arms pipeline continued to flow, and Iranian influence continued to increase. A disabused Prime Minister Silajdzic dined with Galbraith on December 16, 1994.

[REDACTED] As Holbrooke never told Silajdzic that the proposal for reducing Iranian influence had been rejected by the Administration, Silajdzic was unaware that his lunch partner on that December day was truly far more to blame for Iran's running amok in Bosnia than was Holbrooke.²⁶⁷

²⁶⁶ Memoon of Peter Galbraith, November 23, 1994, from the "Record" maintained by Peter Galbraith.

²⁶⁷ Memoon of Peter Galbraith, December 16, 1994, from the "Record" maintained by Peter Galbraith.

²⁶⁸ Holbrooke Dep. at 44.

CHAPTER 9
ALLEGATIONS OF US OFFICIALS FACILITATING
IRANIAN ARMS SHIPMENTS

Assistance to Arms Convoy

Among the issues which the Select Subcommittee examined in the course of its investigation was the question of whether or not US officials knowingly assisted the passage of convoys containing weapons from Croatia to Bosnia in violation of the UN arms embargo. Press reports had identified one specific allegation of such assistance, purportedly involving intervention by US Special Envoy Charles Redman to secure the release of a convoy containing Iranian weapons detained by the Croatians on or about May 13, 1994.¹ Information developed in several depositions, the interview of Anthony Harrington of the President's Intelligence Oversight Board, and from relevant written records, allowed the Subcommittee to determine the facts as follows.

US officials at the embassy in Zagreb were actively involved in efforts to expedite and facilitate the passage of humanitarian aid to the Bosnian Muslims from Croatia throughout 1993 and 1994.² In 1994, although many of the convoys traveling from Croatia to Bosnia legitimately carried nothing but humanitarian aid [REDACTED]

[REDACTED]

¹ Risen and McKernan, US Envoy May Have Aided Arms Convoy to Bosnia, Los Angeles Times, Apr. 17, 1996, at A1.

² Select Subcommittee Deposition of Ron Neitzke, Aug. 7, 1994, at 120-128 (hereinafter "Neitzke Dep."); Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 69-70, 74-76 (hereinafter "Galbraith Dep.");

[REDACTED]

[REDACTED]

Turkovic attempted to convince the US Ambassador to Bosnia, Victor Jackovich, to join her in the convoy. Ambassador Jackovich declined the invitation, determining that it was an odd request and also a matter occurring outside the jurisdiction as Ambassador Turkovic attempted to convince the US Ambassador to Bosnia, Victor Jackovich, to join her in the convoy. Ambassador Jackovich declined the invitation, determining that it was an odd request and also a matter occurring outside the jurisdiction as Ambassador Turkovic attempted to convince the US Ambassador to Bosnia, Victor Jackovich, to join her in the convoy.

On May 13, 1994, Turkovic placed a telephone call to Ambassador Galbraith, seeking his assistance in getting the Croats to release the convoy.¹² Galbraith gave her a noncommittal response because he believed that the convoy contained weaponry and he did not want to be involved in facilitating its passage.¹³ Galbraith's belief that the convoy contained arms was based either upon conversations he had with news reporters or upon intelligence information.¹⁴

Unsuccessful in obtaining Galbraith's assistance, Turkovic called Special Envoy Redman for his help. He was, at the time, in Vienna negotiating with Bosnian and Croatian officials regarding various issues. Redman often intervened in order to help relief convoys cross the border, but when questioned during the investigation regarding the Turkovic

¹² Select Subcommittee Deposition of Victor Jackovich, Aug. 20, 1996, at 57-61.

¹³ Select Subcommittee Deposition of [REDACTED] Aug. 9, 1996, at 65-66 (hereinafter "Dep. 1").

¹⁴ Galbraith Dep. at 68-72.

¹⁵ Id. at 74-78.

convoy he had no recollection of assisting in securing its release.¹⁵ According to [REDACTED] traveling with Redman at the time, the detained convoy was a sticking point in the negotiations between the Muslims and the Croats. Redman acted as if he were interested in resolving the dispute, but [REDACTED] has no firsthand knowledge that Redman acted to free the convoy.¹⁶ [REDACTED] however, had no knowledge that weapons were in the convoy, nor any indication that Redman had such knowledge.¹⁷

The Turkovic convoy was released by the Croats and the circumstances, but logical conclusion is that the release was the result of intercession by Redman.¹⁸ Although Galbraith and the [REDACTED] clearly had suspicions that arms were probably in the Turkovic convoy, there is no evidence to suggest that Redman or [REDACTED] had such suspicions. In fact, while the convoy was detained, the [REDACTED] did not contact [REDACTED] to inform her of the convoy's suspicious content.¹⁹ The Select Subcommittee also encountered no proof that Galbraith informed Redman of his knowledge or suspicion that arms were contained in the convoy.²⁰

Apparently, Redman unknowingly intervened in a transaction which violated the UN arms embargo. His intervention was not atypical, however, because Clinton Administration officials regularly intervened to facilitate the passage of convoys to Bosnia which they believed contained humanitarian aid without consistently making efforts to ascertain whether those convoys also contained weaponry. Hence, after May 1, 1994, US officials may have routinely (albeit unwittingly) facilitated the Iranian arms flow to Bosnia.²¹

Missile Episode

During the course of the investigation of the evolution and implementation of the Clinton Administration's Iranian green light policy, the Select Subcommittee examined in detail a troubling incident in 1995 which casts doubt on the Administration's contentions

¹⁶ Select Subcommittee Deposition of Charles E. Redman, Aug. 27, 1996, at 64-70 (hereinafter "Redman Dep. 1").

¹⁷ Select Subcommittee Interview of [REDACTED] Aug. 21, 1996, at 1.

¹⁸ The same conclusion was reached by the IOB. See Chapter 7, [REDACTED] Dep. at 68-71.

¹⁹ Netze Dep. at 126-128; Redman Dep. at 64-70; Select Subcommittee Deposition of Tom Mithnacht, Aug. 14, 1996, at 8-11, 42-44, 55-60.

time with a [redacted] weapons expert. Galbraith approved the second inspection, and it was conducted six days after the initial examination. The results of the second examination were forwarded to the Department of Defense a couple of days later.²⁶

Later in the month of September, during a meeting with Sadler, Susak asked questions about the missile shipment that suggests that the Croats were holding the missiles pending instructions from the US as to what to do with them. Sadler testified that Susak said, "I'm getting a lot of pressure from the Bosnians to let these missiles into the country, into Bosnia."²⁷ Susak then pointedly asked, "What should I do?" Sadler responded that he could not comment on that issue.

Ambassador Galbraith gave a similar account. He stated that although Susak was concerned that the missiles might contain chemical weapons, he was asking more of the United States than simply to determine the nature of the missiles. Galbraith understood that Susak was asking the US government for permission to let the convoy of missiles proceed into Bosnia.²⁸ Consistent with the green light policy he had championed to his superiors, Galbraith testified that the arms shipment "was a Croatian and Bosnian operation" and "wasn't one for us to monitor or control."²⁹

[redacted]


²⁶ Id. at 17-23.

²⁷ Sadler Dep. at 27.

²⁸ Id.

²⁹ Galbraith Dep. at 75.

³⁰ Id. at 76.

³¹ Dep. at 108. 

[redacted]

These facts, taken as a whole, suggest that Ambassador Galbraith was doing more than simply saying he had "no instructions" concerning Iranian arms shipments through Croatia in violation of the Bosnian arms embargo. The picture that emerges, instead, is that Galbraith may have played an active role in managing and controlling the transshipment of arms. The Croatian government was formally instructed two years earlier, in April 1994, that the US did not "want to be in a position of saying no" to such arms shipments.³² During the two years that had since elapsed, Iranian arms had steadily poured across Croatia and into Bosnia, without any protest by the Administration.

In light of these facts, it is somewhat surprising that Croatian officials asked the US government in the fall of 1995 whether they should permit the missiles to continue into Bosnia. If Galbraith is to be believed, they should have known that the answer they would have gotten would have been "I have no instructions, pay attention to what I'm not saying" -- that is, a "wink and a nod" -- and the Croats would be left to decide for themselves what to do. Of course, all agree that the Croats were concerned that the missiles might carry chemical weapons and that they wanted US weapons experts to see whether they had chemical capabilities. Even so, the clear preponderance of the evidence, including testimony from Galbraith himself, shows that the Croats wanted more than simple advice on whether the missiles carried chemical weapons. What they ultimately wanted to know, as Susak asked Sadler, was what they should do with the Iranian missiles.

The [redacted] testimony provides a ready and plausible explanation for why,



³² Galbraith Dep. at 39 (attributing this statement to Special Envoy Charles Fedman).

³³ Id.

after two years of the green light, the Croats would ask the question: They were looking for US permission to turn back the missiles. Even though the Croats were receiving a share of the arms transferred to Bosnia, it clearly was not in their self-interest to allow Bosnia to develop military capabilities that rivaled Croatia's. The Federation might not last forever, and the Croats had good reason to think that they might someday be at war with Bosnia. The Croats thus were reluctant to allow the sophisticated Iranian missiles to pass into Bosnian hands. They ultimately did so, however, because Galbraith told us to release them.

Tudjman's statement that Galbraith had directed the release of the missiles was confirmed by a statement of Susak from the previous year, which was memorialized in a [redacted]. [redacted] The clear suggestion was that US involvement consisted of more than their passive acquiescence in the release of the [redacted] missiles into Bosnia.

There is additional evidence supporting the inference that Galbraith did more than simply manage the flow of arms through the Iranian-Bosnia pipeline; it would appear that he took affirmative steps to ensure that the pipeline remained open.

Galbraith's response was not that it was for Croatia to decide for itself whether to accept further shipments of Iranian arms. To the contrary, his response was that Croatia could not shut down the pipeline to which the Administration had given the green light.

[redacted] at 108

[redacted]

The Croats, Galbraith explained, "are on the hook for it," meaning that they are committed to act as a conduit for Iranian arms shipments to Bosnia.

These facts, taken as a whole, suggest that, on these occasions, Galbraith may well have overstepped the bounds of the no instructors policy. Instead of remaining neutral in that-party violations of the arms embargo, albeit with the expectation that Croatia would transship arms, Galbraith apparently exerted pressure on Croatian officials to violate the embargo. To be sure, it is perhaps possible to reach a different factual conclusion, and there may be facts that are presently unknown which might support a conclusion other than the one the Subcommittee has reached. Nevertheless, based on the facts known to it, it is the conclusion of this Subcommittee that the totality of the evidence suggests that Galbraith may have played an active role in the release of the [redacted] missiles. The [redacted] missile episode also provides at least some reason to believe that, on other occasions as well, Galbraith may have more or less actively managed the flow of Iranian arms and quashed any possibility that Croatia would shut down the Iranian arms pipeline before Bosnia became totally co-opted - and corrupted - by Iran.

Tuzla Mystery Flights

The Select Subcommittee encountered in the course of its investigation, allegations in press accounts that United States military personnel and equipment participated in the delivery of weapons and supplies to Bosnian Muslim forces in the vicinity of Tuzla, Bosnia during February of 1995. According to newspaper stories, UN observers claimed to have observed C-130 military transport aircraft operating what they believed to be low-level parachute drops in the Tuzla area on February 10, 12, 17, and 23 of 1995. News reports also indicated Danish and Norwegian troops serving with UNPROFOR in the area claimed to have "heard" C-130 aircraft, seen American military weaponry and packaging, and been fired upon when they attempted to investigate the mysterious flights. In light of NATO denials that any such US or NATO flights were occurring, tensions developed between the

[redacted]

UN observers and NATO commanders on the issue.⁴⁴

The Select Subcommittee has attempted to determine the accuracy of these stories and based upon the information made available, has concluded that there is no reliable evidence to support the contention that the US military and US intelligence agencies were involved in what have become colloquially known as the "Turza Mystery Flights." The Department of Defense, National Security Agency, and Central Intelligence Agency have all independently and exhaustively investigated the allegations. Having reviewed materials obtained from these agencies, the Select Subcommittee agrees with their conclusions that there is no evidence of US government involvement in the incidents. Deposition testimony from other individuals who conducted investigations or inquiries regarding the matter have also supported the results of the aforementioned agency investigations.⁴⁵

⁴⁴ Eagan, *Inside the Army Geta Arms, European Spy, The Observer*, Nov. 5, 1985; Drozdal and Orloway, *US Helix Russian Army Geta Arms, European Spy*, Washington Post, July 28, 1985; Dowden, *NATO Accuses UN in Bosnia Army Mystery*, The Independent, Feb. 27, 1995; Wordstream, *Report: US Turns Blind Eye to Arms Drop in Bosnia*, Associated Press, Oct. 30, 1986.

⁴⁵ Dep. at 64-00; Jackovich Dep. at 67-70; Dep. at 64-89; Select Subcommittees Deposition of Richard Herick, August 20, 1986, at 64-85.

CHAPTER 10

THE IRANIAN GREEN LIGHT AND COVERT ACTION

Introduction

Any discussion of the legal constraints on the President's use of covert action must start with the realization that covert action is a legitimate instrument of foreign policy. Covert action, wisely conceived and judiciously executed, can aid the United States in the achievement of its legitimate foreign policy goals and objectives. It is occasionally an indispensable tool, the use of which can effectively advance US interests. Thus, we should not, and do not, start with the proposition that covert action is to be avoided at all costs or should be restricted in ways that make its employment impossible.

At the same time, covert activities, by their very nature, must not be publicly disclosed, at least for some period of time. The planning and execution of these activities are not open for the public to see, to debate, to criticize, or to protest, as are most other governmental activities in this free society. For these and other reasons, the political processes that normally constrain and control exercises of governmental authority do not easily or effectively operate in this sphere. This lack of traditional political and legal oversight is compounded by the wide discretion the Executive Branch enjoys under US law in the foreign policy arena. This discretion, coupled with diminished political accountability, leaves an overzealous administration with the ability to pursue policies that are unwise or outright illegal.

Against this backdrop, it is the purpose of this section to address one principal question: Did US officials formulating or executing the green light decision violate any of the laws or circumvent any of the procedures established by Congress and the Executive Branch? In the event US laws were violated, the next question is what action, if any, ought to be taken. If there were no violations of law, we must still consider whether, in light of the facts as they have been uncovered through this investigation, current laws and procedures are adequate to provide sufficient oversight and control of covert activities.

Overview of the Legal Regime Governing Covert Action

A detailed history of the various laws and executive orders governing covert action is not essential to the purpose of this report and, in any event, is readily available

elsewhere.¹ At the same time, to determine whether the various actors in the green light affair have complied with both the letter and spirit of applicable laws, it is important to highlight the Congressional concerns that have generated the various legal and procedural restrictions over the years.

A review of the legislative activities in this area reveals that Congress has been most concerned about three particular aspects of covert action. First, Congress has sought to ensure that covert action is not carried out by subordinate officials within the Executive Branch operating without adequate coordination among relevant agencies and officials and without supervision by the President and his most senior foreign policy and national security advisers. To eliminate such possibly renegade and generally highly ill-considered operations, Congress, in cooperation with the Executive Branch, has taken steps to ensure that any possible covert action will be carefully considered at the highest levels of the Executive Branch. Congress has worked closely with the Executive Branch to rationalize the functions and responsibilities of the different intelligence agencies, again for the purpose of ensuring a process of high-level review, analysis and advice to the President regarding any proposed covert activity, and to guarantee advance Presidential approval of any such activities.

Second, Congress has been concerned about the appropriate bounds of such activities. In that regard, it has successfully solicited representations from successive Presidents that certain types of covert activities will not be undertaken as a general rule. The Executive Order generally restricting attempts to assassinate foreign leaders is an example of this kind of undertaking. Congress has also occasionally expressed its concerns in this regard more formally through the legislative process, as, for example, when it prohibited the Executive Branch from using any federal monies to supply arms to the Contras.

Third, Congress has also frequently worried about the wisdom of proposed covert activities, especially how such activities relate to other stated foreign policy goals and objectives and how such activities advance the national interests of the United States.

¹ See, e.g., Report of the Congressional Committees Investigating the Iran-Contra Affair, H. Rept. 100-433; S. Rept. No. 100-218, Nov. 13, 1987, at 457-479, Appendix A (Minority Report, Chapters 2-4); Trawenton, *Controlling Covert Action*, in *Controlling Intelligence*, at 113-133 (Hessell, ed., 1991); Koh, *The National Security Constitution: Shaping Power After the Iran-Contra Affair*, at 57-64 (1990); Reisman & Baker, *Regulating Covert Action: Practices, Conflicts, and Politics of Covert Coaction Abroad in International and American Law*, at 116-135 (1992).

Accordingly, Congress has provided by statute that "[t]he President shall ensure that any finding approved pursuant to [the Intelligence Authorization Act, Fiscal Year 1991] shall be reported to the intelligence committees as soon as possible after such approval and before the initiation of the covert action authorized by the finding..." except in certain cases.² The statutory exception is rather broad and open ended, to allow the President adequate discretion to conduct foreign affairs within the scope of his constitutional powers. But, at the same time, the statute continues that in those cases in which the President does not give prior notice, he then "shall fully inform the intelligence committees in timely fashion and shall provide a statement of the reasons for not giving prior notice." Whatever may constitute "timely" notification, the congressional concern is clear: Congress wants its leadership informed about clandestine US adventures abroad -- before the fact, whenever possible, and shortly thereafter in the law remaining cases. Such notification permits a much more informed, candid dialogue between these two branches of government and significantly increases the ability of Congress to carry out effectively its constitutional responsibilities with respect to these activities.

It is against this backdrop that we must examine the legal requirements in this area. Of particular relevance to the instant inquiry is a single broad inquiry: Did any of the individuals involved in the green light affair engage in unauthorized "covert action?" Under current law, the President cannot authorize a covert action unless: (1) the President has made, in advance, a written finding that the action "is necessary to support identifiable foreign policy objectives of the United States and is important to the national security of the United States," and (2) the President has notified Congress, if at all possible, in advance of the covert activity or, in exceptional cases, soon thereafter.³ Of course, to determine whether there is covert action, we must examine the legal definition of "covert action."

The current definition of covert action has not been arrived at easily. Interestingly, what is often thought to be the initial legislative authorization for broad-scale covert activities -- the National Security Act of 1947 -- does not even use the term "covert" in its relevant sections. Instead, the statute merely indicates that it shall be the duty of the "Agency, under the direction of the National Security Council . . . (5) to perform such other functions and duties related to intelligence affecting the national security as the National

² Intelligence Authorization Act, Fiscal Year 1991, § 503(c)(1), Public Law 102-88, Aug. 14, 1991, 105 Stat. 443 (codified at 50 U.S.C. § 4130) (emphasis added).

³ 50 U.S.C. § 4130(c)(3) (emphasis added).

⁴ 50 U.S.C. § 4130(c)(1).

Security Council may from time to time direct.⁶ The National Security Council directive issued in relation to the 1947 Act does refer to covert action in the course of assigning responsibility for coordinating and executing such activity, but provides no clear definition of the phrase.⁷

Definitions did gradually begin to creep into official documents, however. For example, by 1976, Executive Order 11905 contained the following definition of "special activities," a then-convenient euphemism for covert action:

Special activities in support of rational foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.⁸

Executive Order 12333, issued five years later by President Ronald Reagan, embellishes that definition by enumerating activities that are not to be considered special activities or covert action. These include "diplomatic activities," as well as the "collection and production of intelligence or related support functions."⁹

The exclusion for traditional diplomatic activities is particularly relevant here because some of the participants in the green light affair claim to have done nothing more than engage in the routine conduct of foreign diplomacy. Routine diplomatic activities often occur under some cloak of confidentiality, if not secrecy. Indeed, one of the bedrocks of foreign diplomacy is the belief, often vindicated in practice, that foreign government officials are often more candid than they might otherwise be when they can expect that their conversations with US government officials will be held in confidence.

It was on precisely this point that in 1990 President Bush pocket vetoed the proposed Intelligence Authorization Act, Fiscal Year 1991 (S. 2834). In Section 602 of that proposed act, Congress attempted its first legislative definition of covert action.

⁶ National Security Act of 1947, as amended, 50 U.S.C. § 403 (1982).

⁷ National Security Council Directive 102, June 18, 1948.

⁸ Executive Order 11905, § 2(c), Feb. 18, 1976.

⁹ Executive Order 12333, § 3.4(n), Dec. 4, 1981.

Covert action was defined under the bill to include, among other things, any "request" by the US that a foreign government or a private citizen take action that would constitute "covert action" if performed by the United States.¹⁰ The Joint Explanatory Statement which accompanied S. 2834 explained that the provision was designed "to prevent the conduct of a covert action at the specific request of the United States that bypasses the requirement for Administration review, Presidential approval, and consultation with the intelligence committees."¹¹

In his Memorandum of Disapproval, the President indicated his belief that the provision "purports to regulate diplomacy by the President and other members of the Executive Branch by forbidding the expression of certain views to foreign governments and private citizens absent compliance with specified procedures."¹² He opined that this provision "could require, in most instances, prior reporting to the Congress of the intent to express those views."¹³ This was unacceptable, in his view, because:

... the vagueness of this provision could seriously impair the effective conduct of our Nation's foreign relations. It is unclear exactly what sort of discussions with foreign governments would constitute a reportable "request" under this provision, and the very possibility of a broad construction of this term could have a chilling effect on the ability of our diplomats to conduct highly sensitive discussions concerning projects that are vital to our national security. Furthermore, the mere existence of this provision could deter foreign governments from discussing certain topics with the United States at all. Such a provision could result in frequent and divisive disputes on whether an activity is covered by the definition and whether individuals in the executive branch have complied with a statutory requirement.¹⁴

¹⁰ The proposed legislation read, in pertinent parts, that any "request by any department, agency, or entity of the US to a foreign government or private citizen to conduct a covert action on behalf of the United States shall be deemed to be a covert action." § 602(e)(a), S. 2834, H. Rept. 101-928, 101st Cong. (1990).

¹¹ *Id.*

¹² Memorandum of Disapproval for the Intelligence Authorization Act, Fiscal Year 1991, Nov. 30, 1990, Public Papers of the Presidents of the US: George Bush 1990, Book II - July 1 to Dec. 31, 1990, at 1728.

¹³ *Id.* at 1729-30.

As the President made clear in that same Memorandum, however, his disagreement with Congress was largely over the vagueness of the definition, not the substance of the provision. He went on to note:

... [O]bjections to this provision should not be misinterpreted to mean that executive branch officials can somehow conduct activities otherwise prohibited by law or Executive order. Quite the contrary, it remains Administration policy that our intelligence services will not ask third parties to carry out activities that they are themselves forbidden to undertake under Executive Order No. 12333 on U.S. intelligence activities.¹³

To allay Congressional concerns, moreover, he explicitly indicated that he had directed that the notice to the Congress of covert actions indicate whether a foreign government will participate significantly.¹⁴

That the President and Congress were in basic agreement regarding prior policy and practice was also made clear by a letter to the President from the chairmen of both the Senate and the House Intelligence committees, dated November 29, 1990. In the letter, they explained to the President that the provision was not intended as a departure from prior practice, but rather as an attempt to codify what they believed was a pre-existing mutual understanding regarding the requirements that might entail use of foreign governments and non-governmental entities to take covert action on behalf of the US in that letter, the chairmen stated:

Findings have never been required to authorize contacts made by the Government to determine the feasibility of, and to plan for, a covert action prior to seeking the approval of the President. Indeed, it is not the intent of this provision to preclude the informal contacts and consultations which would be required prior to the United States officially requesting a third country or private citizen to undertake such activities on its behalf. Only once it had been determined that such assistance was feasible and it made the subject of an official request by the United States Government would the requirement for a finding and reporting to the intelligence committees come into play. That is, indeed, consistent with the understandings that have long existed between the Administration and two committees.¹⁵

¹³ *Id.* at 1730.

¹⁴ See Cong. Rec., H 6161, July 31, 1991.

Thus, both chairmen confirmed the intent of Congress merely to codify existing practice, not to create new standards or obligations.

Subsequent negotiations did not bring the two sides any closer to agreement on appropriate language. As the House Report on the subsequent version of the Intelligence Authorization Act, Fiscal Year 1991, noted: "Efforts to resolve the President's concern with the definition of covert action in S.2834, and related issues concerning the notification to Congress of covert actions, in a manner satisfactory to the Committee, were unsuccessful."¹⁶ Accordingly, that part of the definition of covert action was dropped from the next version of the bill.

Congress' expectation that it would continue to receive timely notification of any covert activity that the US government requested a third party to execute was in no way diminished by failure to include explicitly this requirement in the definition of covert action. After all, Congress had the President's explicit assurance in this regard.¹⁷ Congress was not content to rely entirely on the good will of the President, however. Congress included in the new law a requirement that any time the US uses a third party to take covert action, the President must make a specific finding to that effect. The law also makes clear that no finding of the President could "authorize any action that would violate the Constitution or any statute of the United States."¹⁸

Under pre-existing understandings and clear Presidential representations made during the course of the legislative process, it is clear that some requests to foreign governments or third parties to undertake certain actions fall within the purview of the regulations on covert actions, while other discussions with foreign governments presumably do not. The trick, of course, is to decide which is which. At the extremes, it is easy to draw the line between traditional diplomatic activities and covert action. If US government officials are simply told that some government intends to take a certain action and the US has played, or plays in the future, absolutely no further role in the matter, it has not engaged in covert action. If, on the other hand, US government officials investigate, facilitate and otherwise play a significant exortory role in the action, even though it is carried out by entities other than the US government, their conduct approaches, if not crosses, the line into covert action.

¹⁶ H. Rept. 102-37, 102d Cong., 1st Sess., Apr. 22, 1991, at 2-3.

¹⁷ Cong. Rec., H 6161, July 31, 1991.

¹⁸ 50 U.S.C. § 4136(a)(5).

Application of the Covert Action Law

Successful delineation of this dividing line is no abstract matter in the case at hand because it is precisely the role of US Government officials in their discussions with foreign governments that is at issue. This is made all the more difficult because, on some crucial issues, the evidence in this case conflicts. Depending on the inferences one draws from the evidence, the role of US Government officials may draw closer to, or farther away from, the line.

Some of the conduct in the Iranian green light matter clearly does not constitute covert action. Although Ambassador Galbraith may properly be criticized for being somewhat overzealous in his advocacy of the green light policy, and although he may be criticized for pushing the foreign policymaking apparatus to an unduly hurried and ill-considered conclusion, the formulation of the policy does not constitute covert action. Ambassadors are not expected to be mere passive conduits for flows of communications and information between foreign governments and domestic policymakers. It is perfectly legitimate for, and part of the traditional functions of, a diplomat to make recommendations among alternative courses of action. His zeal in advocating giving Iran the green light does not detract from the legitimacy of his championing a particular cause within the corridors of the Executive Branch. Such conduct simply does not fall within the definition of covert action.

Similarly, diplomatic efforts to implement the green light policy do not constitute covert action. Again, the traditional function of a diplomat comes into play. Diplomats traditionally have been responsible for communicating the policies of their governments to foreign representatives of foreign nations, either on their own initiative or upon request from a foreign representative. Even though the policy in this case was, as Ambassador Galbraith described it, to give "a wink and a nod" to Iranian arms transfers in violation of the UN arms embargo,¹⁹ the fact that a communication of policy (as opposed to a request to take action) might be intended or expected to produce action on the part of a third party does not subject the diplomat's activity to scrutiny under US covert action laws. Consequently, telling Croatian officials that US officials had been given no instructions on whether to object to Iranian arms shipments to the Bosnian Muslims does not constitute covert action.

The Subcommittee's investigation did, however, include allegations that US officials had taken action in support of the Iranian arms pipeline that, in theory at least, could constitute covert action. The allegation is that in May 1994 Special Envoy Redman, at the

¹⁹ Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 13.

request of the Bosnian Ambassador to Croatia, pressured the Croats into releasing a convoy that purportedly carried only humanitarian supplies but that, in actuality, carried some amounts of arms.²⁰ We find that this activity could constitute covert action if Redman knew that the convoy contained arms, but we find no basis for believing that he had such knowledge. The second allegation of potential covert action was that US officials had airlifted weapons and supplies to Bosnian Muslim forces in Tuzla, Bosnia in February 1995.²¹ Like the Department of Defense and the Central Intelligence Agency, the Subcommittee found no evidence that US officials had any involvement in the so-called Tuzla Mystery Flights.²² On each of these allegations, we find no grounds for concluding that US officials engaged in any covert action.

Unfortunately, we are constrained to reach a different conclusion on certain other allegations pertaining to Ambassador Galbraith, based on evidence revealed during this investigation. These allegations relate to the Nazet missile shipment captured by Croatian officials in September 1995.²³ At the request of Croatian officials, US weapons experts analyzed the Iranian missiles to determine whether they carried chemical weapons. Those missiles were released by Croatia, and the Subcommittee's inquiry on this issue focused primarily on who authorized the missiles to be released. The totality of the available evidence suggests that it may have been Galbraith who instructed the Croats to release the missiles.

[REDACTED]

²⁰ See Chapter 9.

²¹ Id.

²² Id.

²³ Select Subcommittee Deposition of [REDACTED] Aug. 9, 1996, at 108 (hereinafter [REDACTED] Dep. 17).

[REDACTED]

Galbraith argued that Susak and the rest of the Croatians were "on the hook" and, therefore, simply could not discontinue serving as a conduit for arms shipments from Iran to Bosnia.²⁴ In Galbraith's view, [redacted] (F. [redacted] [redacted] the intent of [US] policy to facilitate the delivery of Iranian arms to Bosnia).

Taken as a whole, these facts provide reason to believe that Galbraith may have engaged in an unauthorized covert action with respect to the shipment of arms to Bosnia. The extent he affirmatively and knowingly intervened in the shipment of arms to Bosnia, Galbraith may well have crossed the line from merely carrying out the no instructions policy and taken active part in a clear violation of the UN arms embargo. This conduct — managing the flow of arms — appears to exceed the bounds of traditional diplomatic activity, a phrase that, as a matter of plain meaning, does not exempt any and all conduct undertaken by a diplomat. If, as it seems, Galbraith furnished the [redacted] missiles into Bosnia, his conduct would appear to fulfill the definition of covert action. That is so because the shipment was done secretly, in a manner that saved the US role from being "apparent" or "publicly acknowledged," and was intended to prop up the Bosnian government and military (thereby influencing "political, economic or military conditions abroad").²⁵ Such conduct would be lawful only upon a prior presidential finding and prompt notification of Congress, neither of which occurred here.²⁶

In light of these conclusions, the Subcommittee is compelled to recommend to the House International Relations Committee (HIRC) that this Report, and the evidentiary materials amassed in the course of the investigation be referred to the House Permanent Select Committee on Intelligence for further investigation and action within that Committee's jurisdiction.

Additional Concerns

An Invitation to More Restrictions?

Dep. at 103.

* 50 U.S.C. § 4130(e).

† 50 U.S.C. § 4130.

Even if they were lawful under covert action laws, the Administration's actions in the green light affair are inconsistent with the spirit of cooperation in the formation and execution of US policy that should exist, and has previously existed, between the Congress and the Executive Branch. Before the Administration gave Iran the green light, Congress had expressed strong concerns both about the plight of the Bosnian Muslims and about the need to contain Iranian influence around the world. In talking steps that directly exacerbated both these legislative concerns, it is hexacombable that the Administration not only failed to consult with Congress about its major shift in US policy, but affirmatively concealed its misjudged green light policy through outright deception of the American people and their representatives in Congress. This was a matter that, either as a matter of law or as a matter of comity, clearly should have been promptly brought to the attention of Congress.

It also appears that the green light policy occurred as a result of a complete breakdown of normal Executive Branch deliberative processes. The policy was hastily adopted without adequate consideration of alternatives due to undocumented, behind-the-scenes machinations of senior diplomatic personnel, activities that circumvented the normal foreign policy decision making process. It, therefore, is open to serious question whether the President enjoyed the benefit of adequate reflection and consideration of this policy and its potential consequences by his senior foreign policy and national security personnel. It is precisely to avoid these kinds of problems in areas such as this, with such potentially explosive consequences, that well-defined processes and procedures have been worked out. Whether or not a legal line was crossed in the haphazard, if not reckless, manner in which the policy was implemented, the American people, to say the least, were not well served in this instance of gross foreign policy mismanagement.

Finally, the wisdom of the Administration's procedures and processes is open to serious question. While it is clear that many in the Congress wanted more arms to flow to the Bosnian Muslims, the Administration repeatedly told Congress and the American public that the Administration could not unilaterally arm the Muslims in the face of the UN Security Council arms embargo and opposition from US allies. To play at least some role in encouraging and facilitating, however obliquely, violations of precisely the standards of international law that the Administration declared itself bound to obey is an exercise in duplicity that, to say the least, cannot be expected to inspire confidence that the Administration is complying with the legal strictures that supposedly govern Administration behavior.

Even more problematically in this case, the supplying country was known to be Iran, US policy to deny Iran the opportunity to expand its economic, military, and political

influence in any way could not have been clearer. To find that the Administration was not only tolerating such expansions of Iran's pernicious influence, but, at a minimum, "winking" and "nodding" assent, if not doing more, certainly must give Congress second thoughts about the extent to which the representations of the Administration can be relied upon by lawmakers.

In addition to being ill-advised as a policy matter, the sum of the Administration's actions in this matter seem certain to invite Congress to consider whether more formal restrictions and procedures on the scope of Presidential discretion are warranted. History is a good guide in this respect. When Presidents, in the development and execution of policy, even policy related to America's foreign interests, treat Congress as the adversary, the usual result is ever-increasing restrictions on the procedures and processes by which that policy is formed and executed. An Administration that deals with congressional concerns in such a cavalier and dismissive way leaves Congress little choice but to consider enacting further limitations and restrictions on the discretion of the Executive Branch. Such limitations can be avoided only if Presidents effectively monitor their advisers and themselves engage congressional leadership in an open and frank dialogue on issues that implicate our fundamental national security concerns, such as the US policy to isolate Iran.

Noncooperation In Congressional Investigative Functions

It is worth noting that the problems mentioned above have been exacerbated by the manner in which the Administration has obstructed congressional investigations of its green light policy. We have highlighted at various points in this report actions by the Administration that seem designed not to protect the integrity of the decision-making process or protect confidential communications between US and foreign government officials, but rather merely to discourage the revelation of embarrassing details about a foreign policy process gone awry. Administration officials, at all levels, seemed less interested in serving the public good than in thwarting it, especially with respect to Congress' attempt to fulfill its constitutionally mandated oversight and investigating responsibilities. Needless to say, such obstructionist tactics by the Administration cannot be condoned.

CHAPTER 11

CONFLICTING TESTIMONY AND QUESTIONS TO BE RESOLVED

In the course of its investigation, the Select Subcommittee obtained testimony and information from numerous individuals regarding the matters under investigation. While recognizing that the recollections of witnesses to the same incidents or events may vary on occasion as a result of failure of memory, or differing perceptions, the Select Subcommittee encountered a number of troubling instances where testimony or statements of witnesses was directly contradictory on important matters under investigation. Those contradictions, in some instances, raise the possibility that perjured testimony was provided by witnesses.

The integrity of Congressional investigative authority is adversely affected by perjury, and Congress will encounter tremendous difficulty in carrying out its legislative mandate if false testimony or statements are permitted to obstruct the inquiry. As a result, the Select Subcommittee will set forth the principal instances of conflicting testimony in this chapter, with a view toward identifying with specificity, matters which require investigation by the United States Department of Justice or Independent Counsel.

Conflicting Testimony as to the Content of the Instructions Given to Ambassador Galbraith

A significant factual issue addressed by the Select Subcommittee in its investigation involved the determination as to what instructions were conveyed to Ambassador Galbraith for use in his diplomatic response to President Tadjiman's question regarding the transshipment of Iranian arms. The sworn testimony of Ambassadors Galbraith and Charles Redman varies from the sworn testimony of Deputy Secretary Strobe Talbot, former Deputy Assistant Secretary Alexander Verahow, and Undersecretary Peter Tarnoff and the unsworn statements of National Security Advisor Anthony Lake, Deputy National Security Advisor Samuel Berger, and former National Security Council official Jerome Walker on the subject of the content of Galbraith's instructions.

The conflict pertains to a material matter under investigation, and is not easily resolved in light of the fact that the NSC staff declined to provide testimony under oath. The matter would be most appropriately addressed by referral to the US Department of Justice for further investigation.

**Conflicting Testimony and Evidence as to Whether Congress
was Informed of the Administration's Iranian Green Light Decision**

In the course of its investigation the Select Subcommittee interviewed chairman and ranking members of various congressional committees with an interest in the subject matter of the Iranian green light decision to determine whether such members were advised by the Administration of Ambassador Galbraith's exchange with President Tudjman and the Administration's decision to give the green light to Iranian arms shipments. With the exception of former Senator Dennis DeConcini, all Members of Congress who responded indicated that they were unaware of the Galbraith exchange or the green light. Moreover, Deputy Secretary of State Strobe Talbott and Ambassador Richard Holbrooke testified under oath that the Administration made a conscious decision not to inform Congress of these matters, and, hence, did not do so. As Senator DeConcini's statement to the Select Subcommittee staff are in conflict with both sworn testimony and the vast majority of information available to the Select Subcommittee, further investigation by the Department of Justice of the matter is necessary to determine if any laws have been violated.

**Conflicting Testimony and Evidence as to the Availability
of the "Record" Maintained by Peter Galbraith**

Ambassador Galbraith made available to the Select Subcommittee, for its review, portions of the written record he maintains of his recollections and thoughts on the events of his ambassadorial tour. Charlotte Stoltman, his former secretary (who typed the record from his dictation), and Ronald Metzke, his former Deputy Chief of Mission (who frequently saw him dictating the record), have informed the Subcommittee staff that Galbraith began creating the record in 1983, shortly after his arrival in Croatia. Galbraith has testified that he did not begin to keep the record until November 1994. This conflict must be resolved through an investigation, so as to assure that the Select Subcommittee has been provided with access to all of the documents maintained by Galbraith. The withholding of portions could constitute offenses against both the Congress and the Department of State.

SECTION THREE: POLICY RAMIFICATIONS

CHAPTER 12

THE GREEN LIGHT AND THE IRANIAN FOOTHOLD IN EUROPE

PART I - CROATIA

The decision "at the highest levels" of the Clinton Administration in April 1994 not to interpose ourselves between the Iranians and Croatsians¹ removed the only effective external impediment to Iran's hopes to tie itself into the Bosnian conflict and gain its long-sought foothold in Europe. Before then, Iran had achieved limited success in ingratiating itself with the Bosnian government and almost no success in Croatia. With the US giving the green light, however, Iran has had an unprecedented opportunity to advance its influence in the region and develop a European-based infrastructure — overt and covert — to spread further its radical political and religious message. As bad as the strategic implications are of nefarious and hostile Iranian activities in Europe, Iran's success at co-opting the Bosnian political leadership and developing agents and mechanisms of political influence has also been a disaster for Bosnia itself. It has corrupted the Bosnian Muslim body politic to a degree that, as yet, is not well understood in the West. Moreover, it has immensely complicated, if not doomed, the process that was to have led to the development of a multi-ethnic, secular Bosnia.

The public statements of Administration officials paint exactly the opposite picture, however.

- Ambassador Galbraith testified before the House International Relations Committee that the Iranian presence in Croatia after April 1994 increased "slightly, but not significantly."² In the same session, he stated that the Clinton Administration's green light policy "contributed to peace and to the very significant reduction of the Iranian influence."³

- National Security Advisor Anthony Lake advised the Subcommittee that the

¹ Memorandum to the File from Peter Galbraith, May 6, 1994 (hereinafter "Galbraith Memorandum").

² Hearing on US Role In Iranian Arms Transfers to Bosnia and Croatia Before the House Committee on International Relations, 104th Cong. 151 (1996) (Testimony of Peter Galbraith).

³ *Id.* at 145.

Iranian push in the Balkans preceded the green light. "We have no evidence after the 'no instructions' decision that there was a further significant build up of Iran in the area."

Undersecretary of State Peter Tarnoff characterized the April 1994 decision as one that would allow "the possibility that Iranian influence or Iranian personnel might marginally increase."⁴

Deputy Secretary of State Strobe Talbot assured the Senate Select Committee on Intelligence that the issue in April 1994 was not "to open a door that had been closed to the Iranians. That door was already open."⁵

Volumes of raw and finished intelligence product, reams of diplomatic cable traffic, and Department of State documentation show these statements to be, at best, uninformed. At worst, they are disingenuous. Moreover, with the passage of each day, the newspapers carry more and more information making it appear that the Administration's expectations for the success of the Dayton Peace Process were unrealistic and that the peace process is unraveling. As the peace process falters, the threat of resurgent Iranian influence in Bosnia - direct and through ideological surrogates - grows.

The Bush Administration's Refusal to Open the Door to the Iranians

What the Iranians accomplished on the watch of the Clinton State Department had been tried before, but was rebuffed by the US in 1992.

⁴ Select Subcommittee Interview of Anthony Lake, Sept. 26, 1996, at 4 (hereinafter "Lake Int.").

⁵ Hearing on US Policy on Bosnia Before the House Committee on International Relations, 104th Cong. 24 (1996) (Testimony of Peter Tarnoff); Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 21 (hereinafter "Tarnoff Dep. 1"). In his deposition before the Subcommittee, Tarnoff expanded on this judgment, stating that "we had no evidence following the decision in late April of 1994 that the Iranian military or the Iranian forces' presence had, as a result of that decision, increased significantly."

⁶ Hearing on US Action Regarding Iranian Arms Shipments Into Bosnia Before Senate Select Committee on Intelligence, 104th Cong. 57 (1996) (Testimony of Strobe Talbot).

In September 1992, almost two years before the Clinton Administration signaled its green light, the Iranians tried for the first time to set themselves up as the Bosnians' most important ally, using Croatia as the middleman. The UN-imposed arms embargo (UN Security Council Resolution 713), which passed in September 1991, had achieved the unintended effect of giving the Bosnian Serbs a military advantage over the Muslims and Croats. Despite a significant numerical advantage, the Muslim forces were left without a significant source of weaponry and supplies, whereas the Bosnian Serbs were able to get supplies from the neighboring Serb-dominated Yugoslav Army. The Iranians saw this as their opportunity. They could exploit the desperation of the Bosnian Muslims so as to become their main benefactor and buy influence and a friendly beachhead in Europe. The plan would, however, require the cooperation of the Croatian government because Croatia controlled the only safe land routes into Bosnia.

The Bush Administration became aware of the Iranian scheme in August 1992 and put the Croatian government on notice that the US would find such an arrangement highly objectionable. Thus, in September when an Iranian 747 arrived at Zagreb airport, loaded with military equipment and *misghedn* from Iran and other Muslim countries, the Croatian government notified the US and worked closely and cooperatively to bring the UN in, seize the weapons, and send the plane and its passengers back to Iran. This decisive action - this clear "red light" policy - stymied Iranian plans until the Clinton Administration flashed the green light in April 1994. In the meantime, the Iranians put their designs for a beachhead back on the shelf and contented themselves with small-scale arms smuggling and the incremental expansion of its presence and influence in the region.

Interestingly, Ambassador Galbraith has argued that the Bush Administration's demarche to the Croatian government to stop the establishment of the arms pipeline was a principal cause of the outbreak of the Croat-Muslim war in early 1993.⁷ Based on that interpretation, he argued that the Clinton Administration did not want in April 1994 to repeat the error of the past. The premise of the argument - that the seizure led to Croat-Muslim fighting - is highly questionable. Ronald Neitzke, Ambassador Galbraith's deputy in 1994 and the US Charge to Zagreb in 1992, when the first incident took place, disagrees with Galbraith's analysis and did so even when Galbraith was citing it in 1994 in an effort to convince Washington of the wisdom of giving the green light.⁸ There is also no intelligence linking the demarche and the outbreak of hostilities in 1993. [REDACTED] the head

⁷ See, e.g., Galbraith in Department of State Cable, Zagreb 1683, Apr. 27, 1994.

⁸ Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 36 (hereinafter "Neitzke Dep. 1").

of the Interagency Balkans Task Force and the US Intelligence Community's senior analyst of the former Yugoslavia, forcefully dissents from Ambassador Galbraith's view, "I have not seen anything that would support that as a rationale for the start of that war."

The Iranian Green Light and the Growth of Iranian Influence and the Terrorist Threat in Croatia

President Clinton's green light decision threw open the door of Croatia to the Iranians. After the Bush Administration's demerch of September 1992 and into early 1994 the Iranian presence in Croatia was limited and its influence insignificant. It had a "modest" embassy and maintained a small but active intelligence presence. Relations with the Croats were proper but by no means warm. The Croats were suspicious of Iran's objectives in the region and were troubled by its efforts to radicalize the local Muslim population and the Bosnian Muslims with whom, for most of this period, the Croats were fighting.

The green light decision changed the situation in late April 1994 when the US authorized Iran to use Croatia as its forward staging area and depot in the arms supply line into Bosnia.

Within days of the green light, Croatian Prime Minister Nikica Valentic made a highly publicized and friendly visit to Tehran. The US had known of this trip in advance, and it was cited as the basis for the urgency of Ambassador Galbraith's cables to Washington seeking issuance of a green light instruction. In his message to Secretary Christopher on April 27, 1994, Ambassador Galbraith expressed concern that "if we brown on their [the Croats'] role in supplying the Muslims, this trip may be canceled."¹¹ The green light was given despite the US's often-stated and steadfastly defended policy of facilitating Iran diplomatically, economically, and politically.¹² As a result, Valentic traveled to Tehran where the press reported his joint pronouncements of cooperation with Iranian President Raisanjan and the successful negotiation of several wide-ranging bilateral

¹¹ Select Subcommittee Interview of CIA analyst, Aug. 21, 1996, at 5 (hereinafter "CIA analyst int.").

¹⁰ Neizkle Dep. at 57.

¹¹ Department of State Cable, Zagreb 1683, Apr. 27, 1994.

¹² See Chapter 4.

economic agreements. [REDACTED] Additionally, the two countries set up an agenda for concluding three-way economic agreements including Bosnia. [REDACTED]

[REDACTED] Apparently, the green light from the US was all they were waiting for. A few days later, Iranian Foreign Minister Ali Akbar Velayati reciprocated Valentic's visit by going to Zagreb. There, they agreed to expand areas of cooperation and, as reported in the press, consulted on establishing tripartite cooperation arrangements with Bosnia. [REDACTED]

In subsequent years, the trade between Croatia and Iran would work significantly to Iran's advantage, particularly because of its hard currency problems. [REDACTED]

The significance of the Zagreb-Tehran agreements in opening up the Balkans to Iran was not missed by political and intelligence analysts within the Department of State. The Department of State's Bureau of Intelligence and Research (INR), on May 1, 1994, just four days after the President's green light decision, wrote that the agreements "will give

¹³ [REDACTED]

¹⁴ Department of State Cable, Zagreb 1683, Apr. 27, 1994.

[REDACTED]

Iran a greater foothold in the former Yugoslavia."¹⁷ Thirty days later, another State Department analysis concluded, "Iran sees this as an opportunity to win converts for Islamic fundamentalism and establish a foothold for a base of operations in Europe."¹⁸ And just two months after the green light decision, the Secretary of State's "Morning Summary" included the assessment that Croatian and Iranian bilateral relations had "rebound" and noted, as an aside, that the Croatian foreign ministry believed the US "tacitly approves" of Croatia's role as a centerpiece of the Iranian pipeline. The Summary concluded that under the circumstances the Ture of close relations with Iran will be hard to resist.¹⁹ On the ground in Croatia, the effect was also clear: US Deputy Chief of Mission Neitzke noted:

In the summer of 1993 . . . the Iranian presence in Zagreb had been extremely limited . . . It grew rather dynamically in the aftermath of Croatia's agreeing to transship lots of arms to Bosnia in April (1994) such that by the late fall of '94 relations were clearly booming between Croatia and Iran. We had to drive by their Embassy all the time. We could see the antennas sprouting, more Mercedes plates, and from their sources we were aware that they were a great deal more active. They had more diplomats around town.²⁰

[REDACTED] This did not include Iranian flight crews, passengers, and others who traveled in and out of Croatia as they were needed.

¹⁷ Department of State, Intelligence Research Bureau (INR), Secretary's Morning Summary, May 1, 1994.

¹⁸ Information Memorandum from Toby T. Gatt, Assistant Secretary of State, to Warren Christopher, Secretary of State, May 31, 1994.

¹⁹ INR, Secretary's Morning Summary, June 22, 1994.

²⁰ Neitzke Dep, at 104.

[REDACTED]

IRGC is much more than simply an elite fighting force. It is also Iran's primary instrument in exporting its Islamic Revolution," with contingents in Lebanon and Sudan. It also supports radical Islamic forces in Afghanistan, Algeria, Egypt, and in the West Bank and the Gaza Strip. Moreover, it has close ties with several terrorist organizations, particularly and most notably Hizbullah, which it helped establish in the early 1980's.²¹ Similarly, in Croatia the IRGC was involved in all these activities, in addition to those of a traditional military nature.

Iranian intelligence activities were also growing exponentially. In 1994, the Iranians began developing an intelligence network that soon spanned Croatia. In 1995, the Iranians built on this success and began developing another independent network of agents and contacts.

The Croatians knew the dangers of dealing with a rogue state such as Iran. They had not lost their fear that the Iranians would radicalize the neighboring Bosnian Muslims. There were, however, some "realpolitik" advantages to the Croatians' new bilateral ties. In addition to the commercial benefits described above, Croatia received a commission of at least thirty (and in some cases fifty) percent of all Iranian arms being transhipped across its territory. Additionally, regional commanders and officials in parts of Croatia and in the Croat-held areas of Bosnia were in a position to demand further payments in arms and cash to facilitate the flow. Croatian Defense Minister Gojko Susak, who controlled the military apparatus in Croatia, as well as in Herceg-Bosna, saw the most gain from this arrangement.

Inevitably, these beneficial aspects of this relationship influenced the Croatians and made it easy for them to overlook the clear dangers of dealing with Iran. The actual destabilizing consequences of the Iranian-Croatian relationship in the region and its facilitation of Iran's terrorist designs and capabilities -- particularly those directed against the US -- are appalling. Unfortunately, it is entirely too easy to document these harmful consequences caused by the green light policy. Two incidents -- one from the summer of 1993 and the other from the summer of 1995 -- dramatically illustrate Iranian influence in Croatia which came at the cost of endangering the safety of US citizens in the region and the US's ability to work with Croatia to counter Iran's terrorist designs.

In the summer of 1993 -- one year before the green light decision -- based on

²¹ Alfred Prados, Aije Kim, and Kenneth Katzman, Bosnia-Herzegovina: Factional Islamic Fighters (Cikajabdean), Congressional Research Service Report, Jan. 29, 1999, at 3.

extremely fragmentary intelligence information about a terrorist threat. [REDACTED] The Croatian response was immediate and totally responsive to US concerns over the safety of its citizens. At the time the Iranian presence in Croatia was extremely limited, and the Croatians showed no concern about possibly harming bilateral relations with Iran by acting vigorously against the terrorists. [REDACTED]

A mere two years and a green light later, in the summer of 1995, the situation was very different. By that time, supporting the massive military assistance program that had been given the green light and enjoying the resultant privileged relationship it had with Croatia, the Iranian embassy in Zagreb had become its largest in Europe. For months (starting in the fall of 1994), the US had been gathering evidence of Iranian terrorist planning against US officials presence in Zagreb. The indications were many and unambiguous: [REDACTED] The threat was so serious that the US embassy instituted more rigorous security measures and evacuated individuals who were believed to be most at risk. [REDACTED]

At the strong urging of his Deputy Chief of Mission Ronald Neitzke, Ambassador Galbraith approved using the Embassy's various contacts within the Croatian government to urge that they act against the terrorists. These diplomatic efforts were fruitless, however, and the security situation continued to deteriorate. The Iranian terrorist activities soon accelerated to the point that the US embassy was certain a terrorist act was imminent. Accordingly, in April, while the Ambassador was traveling outside Croatia, Neitzke drafted a strongly worded message to Washington. In it he stated that the time of gentle pressure had passed, and he asked that Washington approve a demarche to the Croatian government to take immediate and decisive action to neutralize the terrorist threat.

In this message, Neitzke linked the threat of Iranian terrorism to the President's

²³ The 1995 terrorist threat is documented in a large number of CIA and Department of State cables and reports made available to the Select Subcommittee. See also, Neitzke Dep. at 104-115. The most comprehensive public account can be found in James Risen and Doyle McManus, *Terrorist Risk to Americans in Croatia is Linked to Iran*, Los Angeles Times, May 21, 1996.

green light policy and pointed out the diplomatic corner the US had painted itself into by giving the Croatians an "all clear" signal to cozy up to the Iranians. The message warrants quoting at length:

[REDACTED]

Neitzke concluded this message by stating that the only other option available was to authorize an evacuation of American officials and their families.

The message had its intended effect: the Department of State approved the fact of a series of strong demarches to the Croatians. Even then, the Croatians refused to expel the Iranians involved in the terrorist planning. Nonetheless US officials and their families were evacuated from Zagreb in early May due to Serbian missile attacks on the city. This resulted in the terrorists having a less "target rich" environment and may have foiled their plans for attack, particularly against the families of US officials. But even so, hostile Iranian activities - including surveillance of Americans - continued at an alarming

²⁴ Department of State Cable, Zagreb 001608, Apr. 19, 1995 (emphasis added).

peace into August when the US again issued a demarche. The Croatians responded that they were "not in favor" of the Iranians' activities but were afraid that taking action would involve Iranian retribution against Croatia.²⁵ As this was happening, the Croatians continued to profit economically and militarily from their fawning relationship with Iran. The Iranians plotting the terrorist actions were never asked to leave Croatia and hostile activities continued. Fortunately, these actions have not culminated in a terrorist attack, but that option remains available to Iran when and if it believes the time is right to strike.

Interestingly, the difference in the Croatian attitude between 1993 and 1995 was mirrored somewhat in the leadership of the US mission in Zagreb. In 1993, the US Embassy's action was unhesitating. In 1995, however, there was a difference of opinion within the US Embassy leadership concerning the will of the Iranians to engage in terrorist acts in Zagreb. Although he does not question Ambassador Galbraith's resolve to counter legitimate terrorist threats, Deputy Chief of Mission Neitzke has indicated that he and Galbraith had a recurring difference of opinion about the Iranian threat. Galbraith was of the belief that it was not in Iran's strategic interest to sanction an attack against the United States.²⁶ Neitzke says he "found the logic of that impeccable; with one exception: terrorists don't think like that, and terrorists habit subplots or there are revenge killings or people are executed to embarrass somebody else, or Zagreb is a sideshow in the overall Iranian-U.S. terrorist relationship for any number of reasons." Neitzke particularly did not find the local strategic argument compelling when Iranians were targeting specific vehicles and apparently specific people.²⁷ Neitzke also was unconvinced by the Ambassador's argument that the US dare not "weaken" the Iranians by asking the Croatians to move against their terrorists. In Neitzke's words, "What had we degenerated to if that was our port? Sincerely, Neitzke took exception to the reluctance he sensed in Washington to the taking of action that might save American lives out of fear that it could also lead to the interruption of the arms pipeline."

In retrospect, it is hard to hold the Croatian government solely responsible for its reluctance to respond forcefully to the anti-US terrorist threat in 1995. To be sure, Croatia's refusal to take action to prevent an imminent terrorist attack against American citizens within its borders is deplorable. Even so, however, the end result was foreseeable by the Administration when it debated the green light policy. Nevertheless, the Administration accepted the known risk of increased terrorism and it decided "at the highest levels not to

²⁵ Department of State Cable, Zagreb 3247, Aug. 25, 1995.

²⁶ Neitzke Dep. at 112. (This and the following quotes in this paragraph.)

interpose ourselves between the Iranians and the Croatians."²⁷ The Select Subcommittee finds it even more amazing that, even as the terrorist danger was making itself known on a daily basis in credible reports from Embassy employees, some Administration officials were inclined to question the threat or, worse, ignore it in order to keep the Iranian arms pipeline open.

²⁷ Galbraith Memorandum.

CHAPTER 13
THE GREEN LIGHT AND THE IRANIAN FOOTHOLD IN EUROPE
PART II - BOSNIA

Even more than in Croatia, the US green light to the Iranian arms pipeline allowed Iran to fulfill its most ambitious designs in Bosnia - for Bosnia, not Croatia, was and remains the European centerpiece of Iranian hopes and plans for the future. The green light and other Clinton Administration decisions that denied or rejected the possibility of allowing other more moderate countries a role in aiding the Bosnian Muslims, in effect, gave the Iranians what amounted to an exclusive license to assist the Bosnian Muslims. Through that assistance, the Iranians successfully intimidated and intimidated themselves with the political and military leadership of Bosnia to a degree that the US has been extremely hard pressed in its efforts to extricate them. The entrenched Iranian influence within Bosnia, particularly its clandestine influence, is a serious challenge to US interests in the region and to the hopes of the Bosnian people for a peaceful, democratic, and Western-oriented future.

The gravity of the situation was captured well in a Select Subcommittee deposition with [redacted]

There is no question that the policy of getting arms into Bosnia was of great assistance in allowing the Iranians to dig in and create good relations with the Bosnian Government. And it is a thing we will live to regret, because when they blow up some Americans, as they no doubt will before this goddamn thing is over, it will be in part because the Iranians were able to have the time and the contacts to establish themselves well in Bosnia.¹

Before the Green Light

Iran was quick to recognize that the ethnic strife in the former Yugoslavia - in particular, the tribulations of a beleaguered Muslim community - could give it an opportunity to entrench itself in a European nation. Iran was among the first nations to recognize Bosnia after it declared itself independent in March 1992. For a few months in the latter half of 1992, Iran, along with several other Muslim states, was able to smuggle small amounts of weaponry to the Bosnian Muslims, sometimes by *ad hoc* arrangements

¹ Select Subcommittee Deposition of [redacted] Aug. 15, 1996, at 29 (hereinafter "Dep. 1").

with Croat officials who would allow the weapons to pass through their territory for a ten to twenty five percent payment in kind. However, the Croats closed down this small scale operation by February 1993 due to deteriorating Croat-Muslim relations and, once again, the Bosnians were for the most part left to their own devices.² The State Department in April 1993 characterized the Iranian contribution to the Bosnian war effort as having been "relatively small."³

In August 1992, Ayatollah Ahmad Jannati, head of the radical Islamic Propagation Organization and newly named director of the Iranian Bosnia-Herzegovina Support Headquarters, visited Bosnia as a personal representative of the Iranian supreme leader Ali Khamenei.⁴ [redacted] By April 1993 there were estimates that their numbers had reached up to 150 soldiers.⁵ On the international front, in addition to numerous public statements of support to the Bosnian Muslims, Iran was instrumental in December 1992 in getting the Organization of the Islamic Conference to pass a resolution calling for the lifting of the arms embargo on Bosnia.⁶

Iran's support, even if more rhetorical and moral than substantive, did not go unappreciated by the Bosnian Muslim government, which was in desperate need of assistance. Neither were the Iranians hesitant to try to capitalize on this appreciation. Iran was already hard at work trying to insinuate itself into every element of Bosnian life through propaganda, the setting up and exploitation of clandestine intelligence mechanisms, and cultural and political overtures. In comparison with the heyday that followed the green light, however, Iran's ability to exploit the situation was limited. Iran did not, for example, even have an embassy in Bosnia. It was only after the US gave the

² Memorandum from Ambassador Philip Wilcox to Secretary Warren Christopher, Apr. 8, 1993 (hereinafter "Wilcox Memorandum 1").

³ Wilcox Memorandum.

⁴ Kenneth Katzman, Julie Kim and Richard Baez, Bosnia and Iranian Arms Shipments: Issues of U.S. Policy and Enforcement, Congressional Research Service (CRS) Report, Apr. 24, 1998, at 2 (hereinafter "Katzman et al. 1").

green light that Iran was able to develop a massive, multi-faceted program that would, on a public level, burnish its image as Bosnia's savior and, on a hidden level, give it political influence and the reach to build a formidable, well-entrenched clandestine capability to carry out its anti-Western designs.

Deputy Secretary Talbott observed in a statement cited at the beginning of the previous chapter that the green light did not open the door to Bosnia for Iran. He is technically correct; what the green light did was to throw the door wider open and put out a welcome mat.

After the Green Light

Although the weapons provided after the green light via the Iranian pipeline did not turn the war around and probably did little more than help the Muslims better defend themselves, there is no denying the magnitude of Irqi's effort in comparison with its marginal involvement in the war before April 1994.

[REDACTED]

⁷ DCI's Balkan Task Force (BTF), May 24, 1996, at 2.

⁸ Select Subcommittee Deposition of LTC John E. Sray, Aug. 29, 1996, at 63 (Hereinafter "Sray Dep.>").

[REDACTED]

[REDACTED]

With the weapons came an Iranian military assistance infrastructure, an expansion of the Iranian presence, and a commensurate expansion of Iranian activity and influence.

[REDACTED]

Within months the Iranian influence in the military was pervasive. Iranians were training, advising, and indoctrinating Muslim fighters in facilities throughout Bosnia. By 1996 thousands of Bosnian military personnel, not including police and security forces, had

¹¹ [REDACTED]

¹² [REDACTED]

¹³ [REDACTED]

¹⁴ [REDACTED]

¹⁵ Sray Dep. at 9.

¹⁶ [REDACTED]

¹⁷ [REDACTED]

gone through IRGC training courses in Bosnia and Iran.¹⁹
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] Also, as in Croatia, the IRGC continued to carry out its "other duties" in trying to support the Iranian revolution and support terrorist organizations, including Hizballah.²¹

Iranian intelligence activities also increased exponentially. The Ministry of Intelligence and Security (MOIS) expanded its assistance, training, and cooperation with the Bosnian intelligence service, and - more importantly - it accelerated its clandestine efforts not known even to the Bosnians. Specifically, Iran moved quickly recruiting well-placed agents of influence and setting up secret networks throughout Bosnia. The MOIS also, like the IRGC, worked closely with Hizballah elements in the region and sought to organize small groups of Bosnians who could form native Bosnian Hizballah-type cells ultimately loyal to Tehran. The Iranian intelligence service was also working to recruit individual Bosnians to act as its future terrorists.²²

On the political and diplomatic level the Iranians were also much more active in the months following the green light, although they did not advertise all their activities to the West. Within ten days of the green light, Iranian Foreign Minister Ali Akbar Velayati made a highly publicized visit to Sarajevo where he presented Bosnian President Izetbegovic with a check for one million dollars, and promised to deliver 10,000 tons of diesel fuel. President Izetbegovic profusely thanked Velayati by saying "While we cannot list all the details now, we must understand that our fight for freedom . . . would be less successful

without Iran and its aid."²³

Also within ten days of the green light, Iran appointed its first ambassador to Bosnia, Mohammed Taherian. Taherian's main responsibility was to manage the Iranian program of aid to cultivate, wield and influence on behalf of Tehran. Taherian was eminently qualified for the task by his experiences as Iran's ambassador to Afghanistan in the 1980s, where he proved himself adept at tunneling aid to the Afghan Shiite mujahedin.²⁴ The Iranian embassy quickly became the largest in Sarajevo. For instance the street on which their diplomats lived was blocked off by the Bosnian police, and even UNPROFOR forces, who were supposed to be able to travel freely on their peace-keeping mission, were not allowed to get close enough to observe the Iranians' comings and goings.²⁵ The embassy conducted aggressive activities to popularize radical Iranian political and Shiite religious thought. This public diplomacy complemented Iran's inauguration on May 10 of pro-Iranian, anti-Western propaganda radio broadcasts in the region in Serbo-Croatian.

With the backing of Iran and the green light from the Clinton Administration, the Bosnian government increasingly became more fundamentalist in its orientation. This occurred even though the Bosnian people are largely secular. The government installed loudspeakers on street corners to broadcast the call to prayer in the mosques. Foreign mujahedin and Bosnian fundamentalists coerced Bosnian Muslims to be more strict in observing "proper" Islamic customs. That summer, for example, Bosnian women wearing bathing suits were beaten and some were even shot for their perceived immodesty.²⁶

By the end of the year, the [REDACTED] concluded "Bosnian officials appear to have made cultivating Sarajevo's relationship with Tehran a top priority."²⁷ [REDACTED]

¹⁹ John Pomfret, *Iran Shuns Explosives to Bosnian Muslims*, *Washington Post*, May 13, 1994, at 1. (The Velayati quote, including the ellipsis, is given as cited in the original article.)

²⁰ Katzman et al., *supra* note 6 at 2.

²¹ John E. Sray, LTC, *Sailing the Bosnian Ash to America*, *Buyer Beware*, United States Army Foreign Military Studies Office, Oct. 1995, at 6.

²² Sray, *supra* at 48.

²³ [REDACTED]

²¹ Alfred Prados, Julie Kim, and Kenneth Katzman, *Bosnia-Herzegovina: Foreign Islamic Espionage* (Majidtehran), CRS Report, Jan. 28, 1996, at 3 (hereinafter "Prados et al.").

²² *Id.*

In 1995 the Iranians would consolidate and expand their influence and activities throughout Bosnia and Bosnian society. The IRGC presence remained in the range of 400 personnel in country. The mujahedin presence was, by the end of the year, 1000 or more. A UN source estimated 1,000 in October; various press accounts in December placed the number between 2,000 and 4,000; and the Washington Post on December 9 reported UN figures of 1,500 foreign mujahedin and 1,500 Bosnian recruits.²⁷ Although the mujahedin are not necessarily under the direct control of Iran, they share Iran's fanatical anti-Western beliefs and, consequently, appear to act as tactical allies on the ground in Bosnia.

Iranian intelligence and terrorist related activities were particularly noteworthy in 1995. The MOIS developed an extraordinary close working relationship with the Bosnian intelligence service which it largely set up. In addition to training, the Iranians provided operational direction and financial support. This assistance was repaid by Bosnian assistance to the MOIS.

[REDACTED]

By early 1996, the Iranians would have some sort of "special" relations with senior Bosnian officials and [REDACTED]

²⁷ Pridos et al., supra note 21 at 3.

²⁸ E.g., 7 Dep. [REDACTED]

²⁹ Department of State, Intelligence and Research Bureau (INR), Iran/Bosnia: Extent In Need, July 22, 1995.

³⁰ Memorandum from Daniel C. Kurzer, Acting Director of INR, to Acting Secretary, Aug. 30, 1995.

Even though senior Bosnian government officials, such as Prime Minister Haris Silajdzic, were becoming increasingly distressed at Iran's burgeoning influence, the prevailing sentiment was that the Iranians had demonstrated themselves to be Bosnia's only "true friends."³¹

While the long-term effects of Iran's pervasive influence throughout Bosnia will not manifest themselves for some time, the Iranian presence clearly does not bode well for the US. Based on past experience, Iran can be expected to continue to target US citizens and installations for terrorist attacks. Iran's continued efforts to radicalize the government and people of Bosnia and to turn them against the US and the West will drive a wedge between the free world and Bosnia. As for Iran itself, the new economic ties with Bosnia will bring Tehran much-needed foreign capital, undermining the effectiveness of US and UN economic sanctions against Iran. The overriding goal for which the Administration accepted these onerous and substantial threats to US interests - achievement of peace in the former Yugoslavia - is now jeopardized by the Iranian influence. As the next section demonstrates, Iran's influence has already presented the Clinton Administration with a substantial - and perhaps intractable - problem implementing the Dayton Peace Accords.

The Green Light and the Dayton Accords:
An Expedient Becomes an Impediment

As this report is being written, the Dayton Accords are coming unraveled and are, on a day-by-day basis, being amended and modified in perhaps the vain hope of keeping them alive. If we assume that the accords were not flawed in their inception and thus could have led to peace, then the effects of the green light are even more tragic. President Clinton and others in the administration argued that the green light decision made the Dayton accords possible.³² In reality, the policy expedient of the green light -- leading

³¹ Galbraith's "Record," May 26, 1995 (Describes meeting between Galbraith and Haris Silajdzic, Bosnian Prime Minister).

³² E.g., President Clinton at the Presidential News Conference with German Chancellor Helmut Kohl (May 23, 1996).

malevolent Iran become the unchallenged benefactor of Bosnia - has undermined the Dayton peace Accords.

The facts show that the residual effects of the green light - the well-entrenched Iranian presence and its pervasive and pernicious influence in Bosnia in effect delayed key elements of the plan for over six months. It also critically hampered efforts to build a multi-ethnic, militarily defensible, and economically viable Bosnia during the scheduled one-year IFOR plan. If IFOR is unable to complete its work within the one year period and the US extends the deployment of its forces in Bosnia (as appears almost certain), the green light policy will have been a major if not principal cause.

According to Article III of Annex 1A of the Dayton Accords, all foreign forces, including freedom fighters, trainers, volunteers, and advisors were to have been expelled from Bosnia and Herzegovina no later than January 13, 1996, that is, thirty days after the agreement went into effect. Cancellation of the withdrawal would allow the US to go ahead with some of its more significant efforts to rebuild Bosnia economically and militarily so as to give the national entities recognized by Dayton a reasonable chance of surviving past the one year IFOR-supervised implementation plan. Among these US initiatives is the release of \$100 million of surplus US military equipment and \$70 million in economic reconstruction assistance.

Unfortunately, the Clinton Administration, either oblivious to or dismissive of intelligence reporting on the subject, seriously underestimated the degree to which the Iranians had managed to ingratiate themselves with the Bosnian Muslim government and infiltrate the Bosnian military, intelligence apparatus, and other government and public organizations. In the months after the Accords were signed, the Administration repeatedly found itself stymied in its efforts to convince the Bosnian Muslims that Iran, who became their most reliable ally under the green light policy, now had to be unceremoniously removed.

Within a week of the signing of the Accords,

[REDACTED]

[REDACTED]

This deluge of the Dayton Accords and the US became a front-page story on February 15, 1996 when NATO forces raided the joint Iranian-Bosnian terrorist training center on a mountainside near Fojnica, Bosnia. NATO forces seized sixty weapons, explosives, manuals and booty-trapped objects, including toys and household items. The NATO forces also confiscated instruction manuals for laying land mines. Pictures of the Ayatollah Khomeini were prominently displayed on the walls, and the book, "Seven American Commanders of NATO Forces in Bosnia said, "It doesn't take a genius to figure out what we found here is an abomination. No one can escape the obvious, that there is terrorist training activity going on in this building and it has direct association with people in the [Bosnian] government."⁴¹ A US intelligence official on the scene noted that "what an intelligence school was run, but methods of terrorism and kidnapping which obviously violate international accords are our great concerns. And it appears the students were Bosnians and the instructors were Iranian."⁴²

On television that night, President Izetbegovic, was unspooked. "We have more phobias like that [F-95] for training people to hurt war criminals. . . . We will continue that

[REDACTED]

⁴¹ Kit R. Roane, NATO Licks Bosnian Government in Training Center for Terrorists, New York Times, Feb. 17, 1996, at 1.

⁴² Id.

activity.

[REDACTED]

Having had so little success in its direct dealings with the Bosnian Muslim government, the Clinton Administration in late February approached over fifty foreign governments, principally in Europe and the Middle East, asking them to lobby the Bosnians to cut their ties with Iran. The talking points provided to the ambassadors, taken from much more specific and damning intelligence reports, actually described the extent of the US's impotence in Bosnia: in the wake of the green light.

-- Iran has developed a security relationship with Bosnia as part of its long-term effort to promote militant Islam and establish a strategic presence in the Balkans. To achieve these goals, Tehran has followed a multi-pronged program which includes providing arms, dispatching intelligence personnel and military trainers and conducting high profile diplomatic efforts attached to limited economic assistance. Iran's long term goals could undermine Bosnia's future.

-- Over the year, several hundred Iranian Islamic Revolutionary Guards Corps (IRGC) troops have worked closely with the Bosnian army. IRGC personnel also are attempting to indoctrinate susceptible Bosnian military personnel with the long-term aim of creating a religiously motivated Bosnian military sympathetic to Tehran's interests.

-- The intelligence training center near Fojnica, which FFOR raided on

⁴³ Christine Spolar, NATO-Soyuz Il Rakodak' Teroristki Training' School, Washington Post, Feb. 17, 1996, at A31.

[REDACTED]

February 15, shows dramatically the dangers of the Iranian intelligence presence.

-- We are concerned, however, that Bosnian government officials do not seem to view the Iranians as a threat to FFOR. US officials had cited the Fojnica training area to Mr. Silegic during his visit to Washington in early December 1995 as one element of our understanding of the Iranian's presence.

-- Iran continues to have the largest diplomatic mission in Sarajevo including a large number of intelligence officers.

-- Given Iranian experience in providing intelligence training to countries as well as radical Islamic groups, we are concerned that Iranian intelligence personnel will try to establish an intelligence training mission with the Bosnian government circumventing the Dayton requirement that they be withdrawn.

[REDACTED]

-- Islamic doctrine -- especially Iran -- have supplied more the [sic] 10,000 tons of war material to Bosnia, since mid-1994. Heavy transport aircraft have delivered arms and other military supplies to Fula airfield in Croatia where they are moved to Bosnia over land or by air. Iran has used other third countries, as conduits for its arms shipments.

The talking points went on to note that several Islamic terrorist organizations, including Hamas, Hizballah, and the Egyptian Al-Gama al-Islamiyah -- which claimed responsibility for the October car bombing in Rijeka, Croatia -- and extremists from Algeria and Sudan established a presence in Bosnia early in the war.⁴⁴

Despite this global diplomatic effort, the Bosnians did little to comply with the Dayton Accords. In late March, three months after the accords were signed, Bosnia still had not expelled the Iranians. This, according to several Department of Defense analyses, revealed that the Bosnian government was unwilling to turn its back on Iran, the country that had been its best supporter. A US Army report characterized the US as being put between "a rock and a hard place." It noted that in response to a Clinton Administration threat to withhold nearly \$400 million in military training funds unless the Iranians were expelled, the Iranians offered to train and arm the Bosnians unilaterally. Moreover, the

⁴⁴ Department of State Cable, State 039237, Feb. 27, 1996.

US's "strong-arm" tactics, combined with the lack of enthusiasm of the Europeans to re-arm Bosnia, had "convinced most of the Muslim leadership that future support from the West may be ephemeral." The report concludes that these factors plus the fragile nature of the Muslim-Croatian federation means the Bosnian Muslims are even more likely to maintain ties with Iran and the Organization of the Islamic Conference.⁴⁷ This assessment mirrors a Defense Intelligence Agency judgment: "The Muslims appreciate Iran's assistance during the conflict. . . . [They] are unlikely to cut their ties to Iran even if a Western equipment and training program were in place."⁴⁸ Similarly, a Department of Defense report frankly concluded that "because Iran has steadfastly helped Bosnia through times of grave crisis, Bosnia considers it necessary to maintain ties to Iran as a future source of assistance after I-OR's withdrawal."⁴⁹ The Defense Intelligence Agency warned that strenuous US efforts to force the Iranians out could result in Iranian terrorist reprisals.⁵⁰

In the period from March through June 1996, the US continued regularly to denigrate the Bosnian government, which appears to be slowly bringing it closer to compliance. In May, a State Department spokesman admitted that there were still "a lot of Iranians in Bosnia in a 'big embassy'" and that they make up a large percentage of the foreign mujahideen who remain.⁵¹ Finally, on June 26, 1996 - over five months behind schedule - President Clinton certified to Congress that the Bosnian government had fulfilled its obligation to reduce its relations with Iran. The careful wording of the press statement and its admission of the scope and seriousness of the Iranian problem make it worth quoting at length:

Since the signing of the Dayton Accords, the Bosnian government has made major progress in meeting our demands on foreign forces and in ending its military and intelligence relationship with Iran. Although some individuals have assimilated into Bosnian society and assumed civilian roles,

⁴⁷ US Army Special Operations Command, Intelligence Summary (10-96), Mar. 25, 1996.

⁴⁸ Nicholas Burns, Department of State Spokesman, Press Briefing (May 24, 1996).

there is no evidence of any remaining organized Mujahideen units.

With respect to the Iranians, the Bosnian government has assured that all IRGC personnel we identified to them have left Bosnia. We have no evidence that those IRGC remain. . . .

Although we have never demanded that all Iranian nationals depart Bosnia or that Bosnia terminate diplomatic or economic relations with Tehran, we have insisted that the Bosnian government end bilateral intelligence cooperation in such operational areas as training and investigations, and end all military ties. The Bosnian government has moved to end the operational military and intelligence relationship with Iran. It has removed from positions of authority key officials that were heavily engaged in intelligence cooperation with Iran, including the former head of the Bosnian intelligence agency.

Congress conditioned appropriation of the final \$70 million for economic reconstruction assistance in FY 1996 on the President certifying Bosnian compliance with these requirements. With this certification, these funds will now be available to meet the needs of the Bosnian people and to begin the long process of rebuilding the war-strengthened Bosnian economy. The President's certification also removes a major stumbling block to commencing the US-led program to train and equip Bosnian Federation armed forces and to strengthening Bosnia's self-defense capability. We are eager to move ahead with this program and will do so as soon as final defense arrangements between Bosnians and Croats have been completed.⁵²

Missing from this statement is an admission that the foreign policy problem was largely, if not entirely, self-inflicted. Moreover, the certification is itself highly questionable. Indeed, intelligence information and a great number of press reports that appeared after the certification show that only by the most lawyerly of interpretation can the certification be termed anything but an outright falsehood.

Within two weeks of the certification, US Ambassador to Bosnia John Wenzler and Central Intelligence Agency Director John Deutch voiced concern to President Izetbegovic

⁵² Mike McCury, White House Press Secretary, Statement by the Press Secretary, June 26, 1996.

over the continued presence in Bosnia of Iranians and other foreign Islamic militants.⁵³ According to press reporting the State Department estimated their number "as less than 100."⁵⁴ However, NATO reports from the period estimated that as many as a hundred Iranian fighters remained and as many as "several hundred" foreign Islamic militants remained of all nationalities.⁵⁵

The *Boston Globe* noted that the President's certification was wrong - instead of leaving Bosnia, "several hundred of the Islamic militants simply moved over to the Bosnian police, with the encouragement of Bosnian President Alija Izetbegovic's Party of Democratic Action." The *Globe* went on to discuss the forced marriage of Bosnian girls to foreigners in order to make the foreigners eligible for citizenship and Izetbegovic's use of the *mujahedin* to harass and intimidate political opponents. The newspaper's editors called upon the Administration to "make every effort to force Izetbegovic and his henchmen to disgorge foreign fighters who threaten peace and democracy in Bosnia."⁵⁶

At about the same time, in early July, the *Washington Post* printed a lengthy piece on the open presence of armed, officially-sanctioned, and frequently Iranian *mujahedin* in Bosnia. According to the *Post*, despite the Clinton Administration's public assurances to the contrary, "Bosnian officials said they think several hundred Islamic fighters are still here, and U.S. officials still think they pose a threat to U.S. forces." The article also referred to the movement of large numbers of *mujahedin* out of the military and into the police. The article went on to say that the remaining foreign fighters, who "are establishing themselves in a broad swath of central Bosnia," are principally Iranian and that they are supported by President Alija Izetbegovic's Party of Democratic Action. The party uses them as a "kind of paramilitary guard" to "terrorize potential political opponents." In Zenica, the *mujahedin* are armed and are free to do as they please. They are supported by the

⁵³ Barry Schweid, CIA Director, U.S. Ambassador Query Izetbegovic about Iranian Fighters, Associated Press Wire Service, July 8, 1996 (hereinafter "Schweid article"); See also, CIA Director Deaulon Visits Bosnia, Associated Press Wire Service, July 8, 1996.

⁵⁴ Schweid article.

⁵⁵ Kurt Schork, *Bosnia: Gora on Karadzic, Islamic Warriors, Reuters*, July 8, 1996; See also Reiel Kaplan, *Bosnia Passes Lead, Is In Line to Receive Millions from U.S.*, *Washington Times*, June 27, 1996, at A13.

⁵⁶ Editorial, *Bosnia's Enemies Within*, *Boston Globe*, July 10, 1996, at 18.

Islamic Center of Zenica, which is controlled by Bosnian officials who are loyal to Izetbegovic. The Center seeks to establish an Islamic state and, throughout the war, had helped fund the Iranian trained Seventh Muslim Brigade. The Center protects the Islamic militants because the men could play an important role in any Muslim state that might emerge should the Dayton accord collapse.⁵⁷

In early August, six weeks after the certification, the *Washington Times* ran an article by its correspondent in Zenica describing the continued presence and influence of the *mujahedin* in organizing "a broad pattern of intimidation." The author observed that, despite the Clinton Administration's assurances that remaining *mujahedin* are not in organized fighting units or "acting in threatening ways," Bosnians and NATO officers dispute these assertions. One American officer recounted, "They [the foreign fighters] stand around us waving their big knives in the air and drawing them across their neck (sic) saying, 'I'll kill you after the elections, you Jewish pig.'" There were also reports in mid-August that "despite intense US pressure on the Bosnian Muslims to cut their links to Iran and other radical Islamic states, Bosnian President Alija Izetbegovic continues to cultivate such connections."⁵⁸ He was also reported as having recently traveled to meet with prominent officials in the radical Islamic government of Sudan.⁵⁹

Clearly, the Clinton Administration's green light policy has effectively given the Iranians the persistent foothold they desperately wanted in Europe. That, in turn, has given the US a serious, unanticipated strategic problem. The US is now virtually impotent in its dealings with Bosnia, and prospects for peace in the region now appear as bleak as ever.

⁵⁷ John Pomfret, *Mujahedin Remains in Bosnia, Islamic Militants Strongarm Civilians, Daily Dayton Plan, Washington Post*, July 8, 1996, at 1.

⁵⁸ Philip Smucker, *Bosnia, Terrorized by Foreign Soldiers Who Aided Muslims*, *Washington Times*, Aug. 8, 1996, at A13.

⁵⁹ John Pomfret, *Gazaan Paksaran's Departure Boosts Critica in Bosnian City*, *Washington Post*, Aug. 18, 1996, at A28.

⁶⁰ *Id.*

CHAPTER 14
THE LEGACY OF THE GREEN LIGHT IN BOSNIA,
TODAY AND TOMORROW

Diminishing Hopes

As this report is being written – at the beginning of October 1996 – fewer and fewer observers of the political situation in Bosnia expect the Dayton peace process will lead to its objective: a multi-ethnic, democratic Bosnia. It is already certain that the process, as originally defined by the Administration, will fail in that quest. We are in the last few months of what the Clinton Administration pledged was to have been a one-year commitment of US troops. The process is hopelessly behind schedule, in large part, as we have shown, due to the lingering Iranian presence in Bosnia. Recently, the Administration has begun to talk of the "follow-on" commitment of US troops as part of an indeterminate, long-term multinational force. Virtually all agree that without such a multinational force, the factions will resume fighting, and, rested and resupplied, the human carnage and destruction will be greater than ever.

Of course, the hope now is that a multi-national force will remain and supervise elections that will populate the democratic political structure envisioned by the Dayton Accords. The elections, however, are in serious trouble. They were to have taken place on September 14, but campaign intimidation, voter fraud, and rampant disregard of the Dayton Accord rules and procedures led the Organization for Security and Cooperation in Europe (OSCE) on August 27 to postpone the municipal elections. OSCE's American director in Bosnia, former US diplomat Robert Frowick, cited "across the board" and "pervasive" irregularities and stated, "We're trying to do too much in too short a time." Although the same problems applied to the presidential and parliamentary elections, the US succeeded in pressuring the OSCE to proceed with them, reportedly out of fear that any backtracking in Bosnia could affect Clinton's re-election campaign.¹

Under existing circumstances, elections are highly unlikely to advance Bosnia towards the ideal of a democratic, multi-ethnic state. Although the Bosnian population is

¹ Chris Hedges, *Municipal Elections in Bosnia Postponed, Raising Doubt About Troop Pullout*, New York Times, Aug. 28, 1996, at 6.

² John Pomfret, *US Diplomat Delays Local Voting in Bosnia*, Washington Post, Aug. 28, 1996, at 1.

anxious to find a political solution that will allow all Bosnians to live in peace, the September 14 elections showed that the political leadership of the three communities – Serb, Croat and Muslim – succeeded in stacking the decks to make sure their supporters, that is the most rearmist and nationalistic elements, will dominate within their zones of influence. In this way, elections are simply providing window-dressing for the ethnic partition of Bosnia, hardening the lines of division rather than demarcating them. As the UN High Commissioner for Refugees in Bosnia had predicted, elections in Bosnia will produce hard-line winners and xenophobic nationalists committed to the maintenance of hostile, homogeneous states.²

The behavior of the Serb and Croat political factions in this deteriorating process has been predictable. From the beginning they have sought separation from what they believe could be a Muslim-dominated, united Bosnia. Indeed, despite a superficial commitment in Dayton to a unified Bosnia, most Bosnian Serb and Croat political and military leaders have as their ill-disguised true objective an alliance with, if not outright integration, into Serbia and Croatia, respectively. True to form, the Serbs have been the most visible in their flaunting of the OSCE rules. The Croats, too, as has been shown in their brinkmanship with the OSCE over the governance of Mostar, are reluctant participants in the building of secular political institutions. The only remaining hope for the Dayton Accords, therefore, is that they will provide a framework in which the three factions will be able to move peacefully towards some form of political partition; the prospect of a unified Bosnia is all but hopeless.

Izetbegovic and the Radicalization of the Muslim Political Leadership

It is the abandonment of secular and democratic principles by the Bosnian Muslim political leadership, particularly by President Izetbegovic and his Party of Democratic Action (SDA), that is the most surprising and disappointing failure of the Bosnian political elite to rise to the challenge of the electoral process mandated by the Dayton Accords. Under the leadership of President Izetbegovic, the Muslims have, in the years since the dissolution of Yugoslavia, frequently tried to calm the fears and suspicions of the Serb and Croat minorities by emphasizing a commitment to secularism and the protection of minority democratic rights. Increasingly, though, the radicalized SDA has taken refuge in nationalism and a obsessive emphasis on the Islamic identity of Bosnia. The SDA now, controlling a plurality of the Bosnian population (some forty percent are Muslim), appears single-mindedly intent that only Bosnia be unified under its domination.

³ Id.

The behavior of President Izetbegovic and the SDA since the Dayton Accords were signed – mirroring the worst behavior of the nationalist Croat and Serb parties – betrays not only professed democratic objectives. This unwelcome development is of grave concern not only to the Croats and Serbs, but also to the West and to the US. If the events of this last year are indicative, a Bosnia under the leadership of President Izetbegovic, the SDA, and allied parties may very well be authoritarian, Islamic, and a refuge for anti-Western, anti-American radicals.

Who exactly is Izetbegovic and what role will he play in shaping the future of Bosnia? A senior Western diplomat with long experience in the region has been quoted as saying, "If you read President Izetbegovic's writings, as I have, there is no doubt that he is an Islamic fundamentalist. . . . He is a very nice fundamentalist, but he is still a fundamentalist. This has not changed. His goal is to establish a Muslim state in Bosnia, and the Serbs and the Croats understand this better than the rest of us."⁴

Izetbegovic was trained as an Islamic scholar and a lawyer, and in his writings he shows a deep knowledge not only of Islamic political and religious thought, but also of the development of Western political philosophy. Nonetheless, over the decades he has been a constant and strong Islamic political activist and was twice arrested during the Tito era for his calls for "Islamization" of the Yugoslavian Muslims.

Two of Izetbegovic's books are available in the West, *Islam Between East and West* and *The Islamic Declaration: Islam Between East and West*, a scholarly work, treating a variety of theological and philosophical issues. *The Islamic Declaration* is more revealing of Izetbegovic's practical political beliefs since it was written to be, as it is subtitled, "a programme of the Islamization of Moslems and Moslem peoples."⁵ It was written in 1970 and illegally copied and circulated among Muslims in Yugoslavia as a roadmap for the development of a resurgent, politically powerful Islam and the building of an Islamic state. It is, therefore, of specific interest in seeing what Izetbegovic's leadership portends for the future of Bosnia.

⁴ John Pomfret, *Bosnia's Muslim Leader Accused of Intimidation*, Washington Post, Aug. 25, 1996, at 22 (hereinafter "Pomfret, Bosnia's Muslim").

⁵ Chris Hodges, *Bosnian Leader Hails Islam at Election Rallies*, NY Times, Sept. 2, 1986, at 7.

⁶ Alija Izetbegovic, *The Islamic Declaration*, (1970) (hereinafter "The Islamic Declaration").

The book's first page gives the goal "Islamization of Moslems" and the motto "Believe and Fight." It then condemns the East and West "for injecting their ideas and capital, and by this new form of influence . . . to ensure their presence and keep Moslem nations spiritually weak and materially and politically dependent." Izetbegovic professes that there is a fundamental "incompatibility of Islam and non-Islamic systems. There can be no peace nor coexistence between the 'Islamic faith' and 'non-Islamic' social and political institutions."⁶ He rejects the Western concept of private property and believes the Islamic state must control natural resources and "all major sources of social wealth."⁷ Moreover, "the upbringing of the people, in particular via the mass media – the press, radio, television and film – should be controlled by people of unquestionable Islamic moral intellectual authority."⁸ He counsels that, through religious revival, Muslims can develop themselves to a point where they can assume political authority, but that "the choice of the right moment is always a specific question and depends on a number of factors. Nonetheless, there is a general rule: Islamic order should and can approach the overruling of rule as soon as it is morally and numerically strong enough not only to overthrow the non-Islamic rule but develop new Islamic rule."⁹ Izetbegovic also believes that eventually there is nothing more "natural" and "realistic" than for the Islamic states to join in "supranational structures – economic, cultural and political – for coordinated and concerted action."¹⁰ Indeed, he believes Muslims must "struggle to create a large Islamic federation stretching from Morocco to Indonesia, and from tropical Africa to Central Asia."¹¹

These views of President Izetbegovic are not particularly radical in the context of current fundamentalist Islamic political thought; they are, however, completely antithetical to Western, democratic values. They are also the ideological gunpowder present in the Balkans that the Clinton Administration ignored when it added the Iranian spark in the form of its green light policy. [REDACTED]

⁷ *Id.*, at 1.

⁸ *Id.*, at 23.

⁹ *Id.*, at 28.

¹⁰ *Id.*, at 38.

¹¹ *Id.*, at 45.

¹² *Id.*, at 49.

¹³ *Id.*

Since the political process in Bosnia has been open, even if it has not been fair, the international press has been free to document the radicalization of the Muslim political elite up to and in the aftermath of the September 14 elections.¹⁵ During the campaigning, NATO officials and international monitors in Bosnia described an officially sanctioned campaign to terrorize the political opposition – Muslim and non-Muslim – of President Izetbegovic. The campaign, orchestrated by the intelligence service, (BAD), regularly used hundreds of garment agents, police officers, and thugs to disrupt the political rallies of the opposition.¹⁶ These thugs illegally detained and interrogated the opposition, even resorting to physical abuse and violence. Political parties that were not as stridently nationalistic and Islamic as the SDA were particularly targeted for attack.¹⁷

This campaign of intimidation was particularly fierce in its harassment of President Izetbegovic's most prominent Muslim opponent, former Bosnian Prime Minister Haris Silajdzic. Silajdzic established a reputation during the war as being more secular in his orientation than Izetbegovic and concerned about Iranian influence and the radicalization of Bosnia. Accordingly, he campaigned against the increasing stridency of the Islamic and exclusivist message of President Izetbegovic and the SDA. Silajdzic rejected Izetbegovic's belief that in order to unify Bosnia, the Muslims must build a strongly nationalist Islamic party to counter the Croat and Serb nationalists who want to partition the country.¹⁸

¹⁵ There is also a great deal of intelligence information providing details at a greater specificity than needed in the report. In this section, the Subcommittee has drawn upon intelligence reporting only to the degree necessary to complement open source reporting.

¹⁶ Mike O'Connor, *The Opposition in Bosnia Faces Terror Tactics*, NY Times, Aug. 19, 1996, at 1 (hereinafter "O'Connor, The Opposition...").

¹⁷ Pomfret, *Bosnia's Muslim*.... supra note 4 at 22.

¹⁸ O'Connor, *The Opposition*.... supra note 16 at 1.

Silajdzic believed the only way to prevent partition is to build secular parties and institutions open to all Bosnians. For this reason, SDA youth activists with the help of the local police and SDA attacked Silajdzic in June 1996, hitting him on the head with a metal pipe.¹⁹ Because of this outrage, the OSCE struck seven SDA candidates from the local state. The result, however, was an increase in SDA harassment and more illegal police arrests of opposition party members.²⁰

As observed by Michael Steiner, the second in command of the international civilian effort to oversee the peace agreement, Bosnian Muslim leaders "just don't want the American and European concept of the free flow of ideas; they want to control ideas."²¹

The degree to which President Izetbegovic's party has aligned itself with Iran and abandoned any pretense at secularism was captured in a report from New York Times correspondent Chris Hedges in September.²² He reported on a campaign rally held in a remote mountainous region of Bosnia. Such rallies, Hedges reports, were "not designed to alleviate the fears of those who believe he [Izetbegovic] wants to set up a Muslim state." The rally began with religious music, followed by Koranic prayers. Speeches were drowned out by cries of "God is great" in Arabic. White-clad Muslim soldiers wearing green head-bands inscribed with Koranic verses signaling their willingness to die for Islam, were in attendance. And, President Izetbegovic himself issued "a call to arms filled with promises never to forget the sacrifice of the 'martyrs'."

Alongside Izetbegovic on the dias was the Iranian ambassador and his Iranian bodyguards. The ambassador was the only foreign diplomat, indeed the only foreigner, traveling with the President on the campaign swing. The Ambassador's presence, Hedges noted "lent a silent Islamic imprimatur to the event, one that many American and European

¹⁹ Id.; Pomfret, *Bosnia's Muslim*.... supra, note 4 at 22; Mike O'Connor, *As Intimidation Persists, Doubts Grow on Bosnia Vote*, NY Times, Sept. 4, 1996, at 14 (hereinafter "O'Connor, As Intimidation Persists...").

²⁰ O'Connor, *As Intimidation Persists*.... supra note 19 at 14.

²¹ Mike O'Connor, *Surprising West, Bosnia's Hamptons Independent TV*, NY Times, Aug. 28, 1996, at 6.

²² Chris Hedges, *Bosnian Leader Hails Islam at Election Rally*, NY Times, Sept. 2, 1996, at 7.

supporters of the Bosnian Government are trying hard to ignore or dismiss.²³

In the weeks that followed, Izetbegovic kept up his close contact with the Iranians, purged his party of supporters "not considered Islamic enough," and continued to marginalize Serbs and Croats in the government.²⁴

The SDA campaign seeks to achieve more than just political objectives. According to NATO sources, foreign Islamic militants, including Iranian-backed terrorist cells, with the connivance of Izetbegovic, work jointly with the BAHD to forward the "long-term goal" of setting up a base for European-wide terrorist operations.²⁵

Despite our inclination to overlook the transgressions of the Bosnian Muslim political leadership because of the terrible tragedies the Muslim people suffered in the war, the leadership's repressive conduct in the recent elections clearly indicates that it has become the hostage of an ideology the US would normally oppose, particularly in a volatile part of Europe. It has become increasingly fundamentalist in pushing a radical agenda of Islam that has developed out of Bosnia's friendship with Iran. The tragedy is that the Administration did not pursue a policy to minimize radicalization rather than throwing the Bosnians into the arms of Iran's ayatollahs.

The Iranian and Foreign Radical Islamic Presence and Influence Today

A number of press reports in September indicate that the situation regarding the presence of Iranians and foreign Islamic radicals continues without improvement:

²³ See also, Mark M. Nelson, *Elections, Far From Liberating in Bosnia, Could Be Prelude to Breathing of Bosnia*, Wall Street Journal, Sept. 13, 1996, at 6 (for descriptions of Islamic rallies "rife with the sounds and symbols of Islam").

²⁴ Chris Hedges, *Three Leaders of New Bosnia: Eviling in Three Directions*, NY Times, Sept. 16, 1996, at 6.

²⁵ Washington Whispers, U.S. News and World Report, Sept. 9, 1996, at 18 (hereinafter "Washington Whispers").

NATO officials and Western diplomats report that the Iranian-backed Hamas, Hizballah, and Islamic Jihad organizations still have training camps throughout Muslim-controlled areas, with many of their members managing to stay in Bosnia with false documents or else because of forced marriages to Bosnian women and girls.²⁶

NATO officials estimate that throughout Bosnia as many as a "couple of hundred" Iranian and other foreign militants remain, particularly in central Bosnia. The town of Bakovic alone has as many as 50 to 100.²⁷

President Izetbegovic has shrugged off requests that he expel a group of Middle Eastern fighters who threatened to kill US troops and civilians. The threat was so intolerable that on September 12, the US had lodged a formal demand that the fighters be expelled.²⁸

A senior NATO official stated that there were large numbers of foreign mercenaries present in Bosnia who are trained as fighters and terrorists. These mercenaries, who are closely allied with Iranian intelligence, are awaiting orders to set off car bombs and carry out assassinations and are "poised" to strike.²⁹

As recently as the fourth week of September, US entreaties to President Izetbegovic to turn out foreign Islamic militants were "ignored." Nonetheless, the US again approached the Bosnians with a request that they expel senior Iranian intelligence operatives.³⁰

Fundamentalist activities in Bosnia continue to be covertly funded by Iran and are supported by President Izetbegovic and his close colleague, Deputy

²⁶ *Id.*

²⁷ Chris Hedges, *Outsiders, Biting Islamic Error to the Balkans*, NY Times, Sept. 23, 1996, at 1 (hereinafter "Hedges, Outsiders...").

²⁸ John Pomfret, *U.S. Protesters Mailed Fighters in Bosnia*, Washington Post, Sept. 13, 1996, at A34 (hereinafter "Pomfret, US Protest...").

²⁹ Hedges, *Outsiders*, supra note 27 at 1.

³⁰ *Id.*

Defense Minister Hasan Cengic³¹

In these circumstances, it is no wonder that the current situation in Bosnia has been characterized as a time bomb waiting to go off.³²

Cengic, a Muslim cleric, is an important player in Bosnian political and governmental affairs and has obstructed US efforts to reduce Iranian influence in Bosnia. As the senior Muslim in the Defense Ministry, he is its effective head. His is a long-time friend of Izetbegovic, and the two were co-defendants in a 1983 trial for fomenting Muslim nationalism in what was then Yugoslavia. Cengic, who has lived in Iran, was responsible for the logistical and financial operations of the Iranian arms pipeline. In addition to being avowedly anti-secular and open in his admiration of Iran, [redacted]

The British have expressed their concern to the US that someone with this background and affinity for Iran should be the principal Bosnian administrator of the over \$100 million US program to train and equip the Bosnians.³³ Interestingly, a senior US official has also identified Cengic as being "the biggest obstacle" to the smooth operation of the program.³⁴ Difficulties encountered have included Bosnian efforts to shake down the US assistance program with "taxes" and charging exorbitant prices for simple logistic services. Even if one were not to know Cengic's background and clandestine affiliation with Iran, his actions clearly indicate his objective is to preserve Iranian and militant Islamic influences in the Bosnian military and to keep the US influence to a minimum.

A second individual who is working actively to counter US efforts at minimizing the influence and activities of Iran in Bosnia is Iran's Levarovic. Levarovic is known for his strong ties to Iran and his work in getting the Middle Easterners into Bosnia to help wage

³¹ Washington Whispers, supra note 25.

³² Hedges, Outdoors, supra note 27 at 1.

³³ Pomfret, US Proteste, supra note 28 at A34.

³⁴ John Pomfret, First American Arms Shipment Arrives In Bosnia, Washington Post, Aug. 30, 1996, at A28.

the war.³⁵ Interestingly, Ljepakovic, who was a co-founder of the SDA with Izetbegovic, now also serves as a senior officer in the BAUD secret police.³⁶ At this point it should come as no surprise that he is the very individual Izetbegovic has made the principal interlocutor with the US in discussing Iranian and mujahedin issues.

Intelligence information confirms much of the above and amplifies it, sometimes in frightening detail. [redacted]

While the Iranians have lowered their political profiles somewhat, and while their numbers decreased through early 1996, the US intelligence community has concluded that, notwithstanding President Clinton's certification, that the Iranian presence in Bosnia has actually begun to increase again since June 1996. [redacted]

³⁵ Pomfret, US Proteste, supra note 28 at A34.

³⁶ Id.

Moreover, the Administration's assertion that the Bosnians who were closest to the
Iranians have been removed is incorrect. [redacted]

[redacted] He has since, under US pressure, been officially moved to a senior
position in the Ministry of Foreign Affairs. [redacted]

A US Intelligence assessment prepared in September 1996 concluded that the
MOIS actively carries on in Bosnia a variety of activities inimicable to US interests:

[redacted]

33 Select Subcommittee Interview of [redacted]

34 Select Subcommittee Interview of [redacted]

[redacted]

The Iranian Green Light and the Future of Bosnia:
Worrying Signs

In contemplating the ramifications of the Administration's green light policy on the
future, we cannot speculate on each of the possible permutations of the political future of
Bosnia. It is sufficient here to note that it appears increasingly unlikely that Bosnia will
emerge as a stable, multi-ethnic democracy. Either peacefully or through war, there will
likely be a *de facto* or *de jure* partition of Bosnia into factions ethnically dominated
autonomous regions or states, possibly followed by annexations of the irredentist areas
into Croatia and Serbia.

Assuming a Bosnian-Muslim state survives this process, it will be the indelible mark
of Iran as a result of the green light. The Bosnia government uses Iranians and other
foreign *mujahedin* as political, ideological, and religious storm-troopers, basing and
terrorizing those who do not subscribe to a nationalist and Islamic agenda. The Bosnian
government has been transformed from secularism to a brand of repressive political Islam.
Iran and Bosnia just this year completed intelligence and terrorist activities, some of which
were directed against the US. [redacted]

[redacted]

There is little hope that the
Bosnian Muslim leadership will give up its emotional and other ties to Iran and re-embrace
democratic values. [redacted]

This is the grim legacy of the Administration's Iranian green light policy, and it must
be acknowledged if we as a nation are to work to neutralize it.

[redacted]

SECTION FOUR: CONCLUSIONS

CHAPTER 15

CONCLUSIONS

Much of this report is classified and must undergo a declassification process before it can be shared with the public. That process is, by law, in the hands of the Executive Branch. Due to difficulties the Select Subcommittee has had with the Clinton Administration's hiding behind classification statutes so as to avoid declassifying embarrassing information -- and there is a great deal here highly embarrassing to the Administration -- we are not hopeful that this process can be completed successfully, particularly in the near future.

The Subcommittee feels, however, the need to share with the American people, as best it can, the results of the investigation. For this reason we have crafted the following conclusions in a way that they do not reference properly or improperly classified information. They are, therefore, less precise and comprehensive -- and less pointed -- than they would otherwise be, but they may, at least, be shared publicly.

It is our hope that the Administration will reflect in its efforts to correct the history of this foreign policy fiasco so that the American public will eventually see a reasonably complete version of the full report which fully documents the conclusions summarized below -- and much, much more.

1. The Administration's Iranian green light policy gave Iran an unprecedented foothold in Europe and has recklessly endangered American lives and US strategic interests.

The Clinton Administration, unable to convince the United Nations to follow its lead in lifting the Bosnian arms embargo and unwilling to abandon its foreign policy philosophy of assertive multilateralism (which denied the US the authority to act unilaterally), found itself in 1994 without a vehicle it found acceptable to implement a change in foreign policy it believed to be in the national interest -- the lifting of the Bosnian arms embargo. Accordingly, the Administration was receptive when its ambassador to Croatia, Peter Galbraith -- a man noted by his colleagues for the passionate pursuit of causes, free-wheeling style, and an open attitude towards Iran -- pressed policy-makers to consider a scheme whereby Iran would be allowed to act as the US surrogate in providing military assistance to the Bosnians.

The President's decision to give Iran a green light in the Balkans allowed Iran to expand its economic and diplomatic relations, as well as establish a military, security, and

intelligence presence so expansive it became the largest concentration of official Iranians outside the Middle East. The consequences have been far-reaching and pernicious. They persist to this day.

In Croatia, a government that had before the green light been a consistent ally in the US's fight against Iranian-sponsored terrorism, was co-opted by the weapons it received in exchange for being a staging point for the shipment of Iranian arms into Bosnia. As a result, after the green light, there was a serious deterioration of cooperation with the US in countering very real and imminent Iranian-linked terrorist threats. The US even now must cope with the consequences of Croatia's developing what has been referred to as an "at-but-out-of-control" relationship with Iran in the wake of the green light.

The consequences of the green light policy have been much, much worse in Bosnia. After the Administration gave the green light, Iran virtually overnight became the unrivaled foreign benefactor of the Bosnian government. As a result, the Bosnian government became less secular and democratic and more open in its embrace of a radical Islamic political agenda acceptable to Iran but inimicable to US national security interests and democratic values.

[REDACTED]

These disturbing yet clearly foreseeable developments leave no room for doubt that the Administration's green light to Iran -- of all countries -- may have doomed the only real hope for Bosnia: the development of social and political institutions founded on respect for human rights and democratic principles. Somehow the Administration failed to see the short-term expediency of its Iranian green light was a long-term curse on the Bosnian people.

Even now, the Administration is having to cope with the fallout from its policy. Iran's pernicious influence and the Bosnian political leadership's private thralldom to Iran are

giving the Clinton Administration its most intractable, behind-the-scenes problems in Bosnia. Despite the Administration's public assurances to the American people and Congress to the contrary, Iranian influence in the highest Bosnian ruling circles remains pervasive and Iranian terrorist and intelligence capabilities in Bosnia remain a great cause for US concern. The Iranians are being their time, and the radicalized Bosnian Muslim political leadership (in contrast to a largely secular population), may yet succeed in turning Bosnia into a radical and authoritarian state. There appears to be little hope that the situation will improve since the Bosnian government is fighting tooth-and-nail US efforts to cut its ties to Iran. The probability that the green light will end up costing American lives is all too great given Iran's track record.

What is even more disturbing to the Subcommittee than the disastrous consequences of this ill-conceived policy is that even after its policy became apparent, the Administration rejected other specific and readily available options that could have lessened, if not reversed, the damage that had been done. Instead, it took actions that exacerbated the problem and further enhanced Iran's grip on Bosnia.

2. The President and the American people were poorly served by the Administration officials who rushed the green light decision without due deliberation, full information and an adequate consideration of the consequences.

The Administration's decision to issue the green light was reached hurriedly and without a full knowledge of the relevant facts. Traditional consultative mechanisms were circumvented. The decision and deliberative processes were intentionally undermined. Key information was not passed up to the President's advisors, and even less information was made available to the President himself. Moreover, senior NSC and Department of State officials allowed themselves to be forced to rush the decision-making process to meet an artificially short deadline that discouraged their consideration of other less dangerous policy options. As a result, the decision was made without full consideration of the strategic consequences of giving Iran - the rogue state most hostile to the US - an effective exclusive franchise to buy influence and peddle terrorism in a volatile part of Europe highly vulnerable to fundamentalist agitation. Had the President and the senior advisors inquired deeper, it is possible that the hazards of the Iranian green light policy would have been appreciated and, perhaps, avoided.

3. The Iranian green light policy was inconsistent with - indeed antithetical to - the established policy to isolate and contain Iran.

The Clinton Administration has shown an admirable consistency in advocating and

enforcing the long-held and bipartisan-supported policy of isolating and containing Iran, politically, militarily, and economically. When presented with the question in the spring of 1994 about Iran's proposal to come into the Balkans and Europe in a big way, the policy was clear and the answer should have been obvious: "Just say no." That is exactly what the Bush Administration did two years earlier when presented with almost the identical situation. It is baffling, therefore, that the Administration decided instead to give the Iranians a green light and held open the door to Europe for them. The Administration, in an amazing lapse of judgment, scuttled its own policy of isolating Iran and instead helped it develop an extensive and uniquely valuable set of political, military, and economic relationships in Europe.

It is impossible to reconcile the Administration's much-ballyhooed public policy of isolating Iran with its secret efforts to help Iran expand and normalize its foreign relations.

4. The Administration's efforts to keep even senior US officials from seeing its "fingerprints" on the green light policy led to confusion and dismay within the government.

From the beginning, the Administration realized the green light policy was "dynamic" and so worked to implement it "without fingerprints." Within the Administration, President and a handful of senior officials were officially aware of it - basically, the State, The CIA, which was responsible for collecting intelligence on embargo busting and Iran, as well as working to support the policy of isolating Iran, and the Department of Defense, which was responsible for enforcing the arms embargo, were not advised even at the most senior levels. Moreover, important State Department officials working with key allies, the UN, and in relevant policy areas continued to work with the understanding that it remained US policy to oppose violations of the arms embargo. In effect, while the CIA, Defense Department and most State Department officials were working to counter the green light policy, a few senior policy makers were secretly working to implement it. This complete lack of coordination between relevant US agencies on matters of important national policy was such that, were the consequences not so serious, it would be worthy fodder for a Shakespearean, if not a Marx Brothers comedy.

5. The Administration's duplicity has seriously damaged US credibility with its allies.

It is ironic that the Administration - one that has placed such an emphasis on multilateralism - has in its duplicity, if not outright deceptive, Iranian green light policy, given other countries serious reason to doubt the US's good faith in any of its assurances

and commitments.

On numerous occasions, senior Administration officials, including the President, defended their unwillingness to arm the Bosnian Muslims unless the UN arms embargo was lifted. Two reasons were emphasized. First, the Administration possessed an unbreakable fidelity to the letter and spirit of UN Security Council resolutions, even when inconvenient for the US, because a strong UN represented the very best possibility of creating a stable, more just and responsible world order. Second, the Administration repeatedly counseled Congress and other countries that we must keep faith with our allies in the Contact Group. Any move by the US to break the embargo, they argued, would endanger allied soldiers on the ground in Bosnia as part of UNPROFOR and, therefore, lead to the evacuation of European troops.

At the same time the Administration was making these high-minded arguments about the need to respect both internationally agreed upon rules and US allies, it was working assiduously behind the scenes to undermine them. The message this sends is clear: 1) so long as you publicly support international law, you may privately do virtually anything you want, and 2) it would be a foolish ally, indeed, that trusted the Administration to act in concert and in accordance with its agreements.

It is no wonder that our allies have been less willing to follow the US lead during the past months in any number of international arenas.

In the Iranian green light matter the Administration has squandered our allies' good will and trust in us. Moreover, it did so in pursuit of a short-sighted and eventually self-destructive policy.

6. The Administration repeatedly deceived the American people about its Iranian green light policy.

Rather than follow the traditional practice of deflecting questions and refusing to comment on allegations of particularly sensitive foreign activities of the US government, Clinton Administration officials, including the President, directly and through press spokesmen and press statements, repeatedly deceived the American people in an effort to cover up its secret policy of giving Iran a green light to expand its presence and influence in the Balkans.

These are just a few of many examples:

• The United States is not, underline not, covertly supplying arms or supporting the

supply of arms to the Bosnian government.* (Secretary of State Warren Christopher)¹

"The US did not cooperate, coordinate or consult with any other government regarding the provision of arms to the Bosnians. . . . We have always made clear that we were abiding by the arms embargo and that we expected other countries to do so as well." (National Security Council)²

"We are certainly not contributing to it, and we certainly are not turning a blind eye." (Department of State, in response to a question about the US role in getting Iranian arms to Bosnia.)³

• "No." (President Clinton in response to a question if the US was involved in "orchestrating the transfer of arms to the Bosnian Muslims")⁴

7. The Administration deliberately concealed the truth from Congress regarding the President's Iranian green light decision.

Despite protests to the contrary in the early months of this investigation, Deputy Secretary of State Strobe Talbott recently admitted to the Subcommittee that the Balkans. The Administration's deliberate efforts to keep Congress in the dark was inconsistent with the spirit of cooperation in the formation and execution of US foreign policy that various legislative mandates and executive orders have been designed to foster. It is Congress' constitutional right to risk that the Executive Branch's activities stay within the bounds lawfully mandated by Congress and that Congress be consulted on important foreign policy matters. Consultation with Congress is especially important when the President has adopted policies that directly impinge on matters about which Congress has expressed strong views. Two such matters are clearly the Bosnian arms embargo and

¹ Bill Gertz, Barry Thune, *Massive Aid*, Christopher Daniels, *Report of Covert Arms Shipments*, The Washington Times, July 28, 1995.

² National Security Council, *Daily Guidance Update*, Feb. 2, 1996.

³ Department of State Cable, State 082370, Apr. 14, 1995.

⁴ *The Latta Edition: US Denies Furnishing Arms to Bosnian Muslims* (CNN television broadcast, July 28, 1995).

the US policy to isolate Iran. In taking measures that circumvented the embargo and frustrated the bipartisan Congressional policy of isolating Iran, it is highly disturbing that the Administration not only did not take any steps to consult with or even inform Congress, but said things that, in retrospect, can only be viewed as intentionally misleading.

8. Several Administration officials gave false testimony to Congress on the development and implementation of the Iranian green light policy.

The Select Subcommittee, in addition to reviewing reams of documents in its investigation, took sworn depositions from 27 individuals who were in key positions of particular importance for understanding the events under examination. The Subcommittee interviewed another 50 or more people less central to the investigation or who were directed by the White House not to provide sworn testimony on the basis of executive privilege. Comparing the statements of several individuals, it is apparent that there are serious material discrepancies over several matters central to the Subcommittee's investigations.

The Select Subcommittee is truly disturbed that it received testimony and statements from the National Security Advisor Anthony Lake, Deputy National Security Advisor Samuel ("Sandy") Berger, Deputy Secretary of State Strooke Talbot, and Ambassador Jenorne Wicker that directly contradict Ambassador Peter Galbraith's sworn testimony with respect to material issues before the Subcommittee and Congress.

Moreover, the Select Subcommittee is further dismayed that sworn testimony provided by Ambassadors Peter Galbraith and Charles Redman, both before the House International Relations Committee and the Select Subcommittee, is not supported by evidence uncovered through this investigation.

Accordingly, the Subcommittee is referring this matter to the Department of Justice for further criminal investigation.

9. There is evidence that Ambassador Peter Galbraith may have engaged in activities that could be characterized as unauthorized covert action. The evidence is sufficient to warrant referral to the House Permanent Select Committee on Intelligence for further investigation and action within its jurisdiction.

There is evidence that Ambassador Galbraith played a significant supervisory role with respect to at least one Iranian weapons transshipments through Croatia. Galbraith's goal in facilitating the transshipment was to affect political and military conditions in

Bozrah.

There is also evidence that he had input into or advance knowledge of the planning and operation of the Iranian weapons pipeline that Iran used to ship arms and gain influence in the embattled Balkans. There is uncontroverted evidence that he was privy to operational details concerning the pipeline that would ordinarily be known only by active participants in the planning or operation of the pipeline.

To the extent he actively participated in the formation and execution of the Iranian arms pipeline, there is a high probability that he overstepped the bounds of traditional diplomatic activities and engaged in an unlawful covert action undertaken in the absence of a Presidential finding and without timely notification of Congress.

In light of these conclusions we are recommending to the House International Relations Committee that this Report and the results of the investigation be referred to the House Permanent Select Committee on Intelligence for further investigation and action within that Committee's jurisdiction.

10. The Central Intelligence Agency exercised sound judgment in its refusal to participate in activities that might have otherwise led to an inadvertent and illegal covert action.

The Central Intelligence Agency (CIA) did not participate in the development of the green light policy. CIA officers at several levels correctly refused to participate in its implementation without assurances that it was being conducted within the parameters of its legal support to diplomatic activities or a presidential finding. Because CIA officials rightly insisted on proper legal authorization for the change in US policy to the green light policy (and, if required, a notification of Congress), the Administration side-stepped the CIA and did not keep it adequately informed.

It is also our finding that CIA officers acted appropriately in monitoring and reporting to their superiors what were, to them, apparently rogue activities by senior US State Department officials. Moreover, senior CIA officials properly reported this information to the appropriate authorities with the Department of State and the National Security Council for their action. CIA was put in the awkward situation solely because of the unnecessary and unjustifiable secrecy within the Administration concerning its green light policy.

11. The Administration is hiding its embarrassment behind the veil of classification.

Despite the President's assurance to Congress that his Administration would "cooperate fully" in its examination of the Iranian green light policy, the Administration has repeatedly placed serious, unnecessary obstacles in the Select Subcommittee's way, including the withholding of documents and the refusal to allow some officials to sit for sworn depositions. In addition to its efforts to hamper the investigation, the Administration is also abusing its authority to classify information so as to avoid letting the Subcommittee share with the American public what it has learned.

In July the Subcommittee tested the Administration's commitment to cooperate by asking the Department of State to review three documents for declassification that are essential to telling the story of how the green light policy was actually implemented, as opposed to how it has been publicly portrayed by the Administration. After over one month of deliberation and several missed deadlines, the Department finally responded by refusing to declassify any part of two of the documents and declassifying only approximately a half of the third document. This was despite the fact that a substantial portion of these documents pertained to events that have been testified about publicly (with "spin") by several Administration officials.

What most clearly demonstrated the Administration's efforts to hide its actions behind the shroud of declassification is that several sentences and phrases were redacted from the third document that were clearly unclassified but which would have embarrassed the Administration. This includes, for example, a senior State Department official's negative characterization of the policy-making community in Washington. Follow-up discussions with the State Department did not result in a reconsideration of their obviously improper action. Accordingly, at the request of Chairman Hyde, the Information Security Oversight Office has launched an investigation of the Department's behavior in this case.

APPENDICES

A. Budget, Biographies, and Acknowledgments

SELECT SUBCOMMITTEE BUDGET AND STAFF

A. BUDGET

House Resolution 418 authorized the establishment of a Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia of the Committee on International Relations. The budget was approved with the passage of House Resolution 417 on May 8, 1996, authorizing the expenditure of funds to establish and conduct an investigation. The Majority and Minority Counsel conducted the investigation in the most economical manner possible. The Congress budgeted \$995,000.00 for a period not to exceed six months.

B. MAJORITY STAFF

Chief Counsel Richard J. Pocker

Richard J. Pocker is presently a partner in the Nevada law firm of Dickerson, Dickerson, Conrad and Pocker, engaged primarily in civil litigation. Prior to entering private practice, he served with the United States Attorney's Office in Las Vegas, Nevada as an Assistant United States Attorney, the Chief Assistant United States Attorney and as the Interim United States Attorney for the District of Nevada, appointed to the latter position by U.S. Attorney General Richard Thornburgh.

During his career as a Federal prosecutor, Mr. Pocker successfully prosecuted William Procter Galt and other anti-government, anti-Semite tax protesters in the celebrated "Contractors of the States" trial in 1987, a prosecution that set the stage for later efforts against groups such as the Freeman of Montana. In the late 1980's, Mr. Pocker's significant series of court room victories over fraudulent telemarketing companies resulted in his receiving the Director's Special Commendation Award from the U.S. Department of Justice and the Chief Postal Inspector's Special Award for Excellence of Performance in the Administration of Justice. He is a 1980 graduate of the University of Virginia School of Law, and a veteran of the United States Army Judge Advocate General's Corps.

Staff Director John I. Millie

John Millie previously worked for the House Permanent Select Committee on Intelligence (HPSCI) as Staff Director of the Subcommittee on Human Intelligence, Analysis, and Counterintelligence, the subcommittee responsible for, among other things, oversight of most CIA, Defense Intelligence Agency, and FBI intelligence activities.

Prior to his work on Capitol Hill, Mr. Millie served for 12 years in the CIA's

Directorate of Operations as an operations officer and manager in a variety of overseas posts in Asia and Africa. In 1991-92 he also served as the Director of Central Intelligence's Liaison officer to the National Security Agency (NSA) and Executive Assistant to the Deputy Director of NSA. Mr. Millia graduated from Wake Forest University in 1975 and attended graduate school at the University of Chicago and Banaras Hindu University, India. He received an M.A. and Ph.D. (with distinction) from Chicago.

Deputy Chief Counsel Patrick B. Murray

Patrick B. Murray served as full committee Counsel with the House Judiciary Committee from January 1995 through May 1996. His primary responsibilities involved crime issues pending before the Committee. He assisted Chairman Hyde in the drafting and ultimate enactment of the Antiterrorism and Effective Death Penalty Act of 1996, which was signed into law on April 24, 1996 (P.L. 104-132).

Before moving to Washington in 1995, Mr. Murray was an Assistant United States Attorney for the Northern District of Illinois, in Chicago, Illinois. He served the United States Justice Department in that capacity since 1990. He was involved in prosecuting major narcotics offenses, and white collar crimes, including mail and wire fraud and public corruption cases. Prior to joining the Justice Department, Mr. Murray was engaged in the private practice of law as an Associate with the firm of Clausen, Miller, Gorman, Gaffney, & Wilous P.C., also in Chicago.

Mr. Murray is a graduate of the DePaul University College of Law (J.D.) and received his undergraduate degree from Creighton University (B.A.).

Associate Counsel Michael K. Young

Michael K. Young, is a Fuyo Professor of Japanese Law and Legal Institutions; Director, Center for Japanese Legal Studies and Center for Korean Legal Studies at Columbia University. Mr. Young was a law clerk to Justice Benjamin Kaplan of the Supreme Judicial Court of Massachusetts, 1976-77, and to Justice William H. Rehnquist of the United States Supreme Court, 1977-78. He joined the Columbia faculty in 1978. Mr. Young has been a visiting scholar at the Faculty of Law of the University of Tokyo, 1978-80, 1983, a Japan Foundation Fellow, 1978-80 and a visiting professor at Nihon University, 1985 and Waseda University, 1989. He also served as Ambassador for Trade and Environmental Affairs, 1982-83; Deputy Undersecretary for Economic and Agricultural Affairs, 1991-93; and Deputy Legal Adviser to the US Department of State, 1989-91.

Mr. Young has been the Chairman of the Advisory Committee to the Japan Society's Public Affairs Program; a POSCO Research Institute Fellow; and member of the Council on Foreign Relations. He graduated in 1973 with a B.A. from Brigham Young University and received a J.D. from Harvard University in 1976, where he served as note editor of the

Harvard Law Review.

Associate Counsel Stephen F. Smith

Stephen F. Smith is an associate with the Washington, D.C., office of Siskley & Austin, where his practice focuses on litigation before the U.S. Supreme Court and other federal and state appellate courts. Before joining Siskley & Austin, Mr. Smith served as law clerk to Associate Justice Clarence Thomas, of the U.S. Supreme Court, and to Judge David B. Sentelle, of the U.S. Court of Appeals for the District of Columbia Circuit. Mr. Smith graduated with honors in 1982 from the University of Virginia School of Law, where he served as Articles Editor of the *Virginia Law Review*, and received the undergraduate degree from Dartmouth College in 1988.

Executive Assistant Julia W. Gaines

Julia Gaines, prior to joining the Select Subcommittee, served as the Legal Research Assistant for the Office of Independent Counsel Joseph E. diGenova from January 1992 through June 1996. From May 1991 through January 1992, she was the Minority Staff Assistant for the U.S. House of Representative's "October Surprise" Task Force.

Prior to her government service, Ms. Gaines was the Administrative Assistant for Merrill Lynch and a Senior Sales Assistant/Insurance Coordinator's Assistant for Kidder, Peabody & Co., Inc. In addition, she was the Senior Sales Assistant/New Accounts Administrator for Prudential-Bache Securities. She graduated with a Bachelor of Science degree in Psychology from the University of Florida in 1982.

Senior Staff Associate Janine E. Doherty

Janine Doherty, prior to joining the Select Subcommittee on June 17, 1996 as Senior Staff Associate, served in the office of Congressman Peter T. King (R-NY). During her year with Representative King, she handled legislative research and constituent correspondence. Ms. Doherty received a B.A. in International Politics from the American University in 1994, and next year plans to pursue a law degree.

Staff Associate Douglas C. Austin

Douglas Austin joined the Select Subcommittee on July 15, 1996. Prior to his current position he worked as a researcher for the Republican National Committee and previously as an intern for the House Republican Policy Committee. Mr. Austin graduated with honors in 1992 from the University of Redlands with a B.A. in Government and History and received a Masters Degree in International Studies from Claremont Graduate School in 1994.

Full Committee Support Staff

We would like to acknowledge the valuable assistance provided from Full Committee Staff Members, Christopher A. Baugh, Caroline G. Cooper, Barbara J. Scantlebury, and Allison K. Kernan, whose tireless work and dedication were indispensable to the completion of this project.

We would also like to acknowledge John Mackey for his insights and suggestions offered as Liaison to the Select Subcommittee. In addition, the Select Subcommittee could not have succeeded without the valuable expertise of Senior Staff Associate Jo Weber and Budget/Fiscal Affairs Officer Shely Lynhington.

We would also like to acknowledge the extensive help in travel arrangements and security measures provided by the Security Officer Willie Lobo. In addition, the Select Subcommittee could not have completed any of its work without the continued support and help from Systems Administrator Cheryl Earnshaw in establishing a computer system which enabled the Subcommittee to not only write its report, but also, through the use of removable hard-drives, enable it to draft a report while maintaining the security of classified information.

C. MINORITY STAFF

Minority Chief Counsel Richard Metzger

Richard Metzger is a partner in the Washington, D.C. law firm of Washington Counsel, P.C. In July 1996, he was appointed Minority Chief Counsel to the Select Subcommittee. Mr. Metzger served for three years as the Chief Counsel to the US House Committee on Interior and Insular Affairs. Mr. Metzger also served as Legislative Director to US Representative Abner J. Mikva. Mr. Metzger has conducted numerous investigative, legislative, and oversight hearings. He is a native of Chicago, Illinois, and received his undergraduate degree from the University of Rochester and his law degree from Northwestern University School of Law.

Minority Staff Director Michelle Maynard

Prior to being appointed Minority Staff Director of the Subcommittee, Michelle Maynard served from 1989-1996 as Professional Democratic Staff Member for the Senate Committee on Foreign Relations, with lead staff responsibility for the Newly Independent States and Europe, including Bosnia, Croatia and the former Yugoslavia.

Before joining the Senate Foreign Relations Committee in 1989, Ms. Maynard served for two years with the US Department of State's Public Affairs Bureau. She holds a Masters Degree in Foreign Services from Georgetown University, and a Bachelor of

Science Degree in Political Science from the College of Holy Cross.

Deputy Minority Chief Counsel Charles Teller

Charles Teller, in addition to his position with the Select Subcommittee, is an Associate Professor at the University of Baltimore Law School. Mr. Teller was the Deputy General Counsel and Solicitor of the US House of Representatives from 1984-1995. In 1987, he was the Special Deputy Chief Counsel for the US House of Representatives Select Committee Investigating the Iran-Contra Affair. Mr. Teller has published the *Iran-Sovietization*, President (Westview Press, 1994), and *Congressional Practices and Procedure* (Greenwood Press 1989).

Deputy Minority Chief Counsel Charles Rothfield

Prior to joining the Select Subcommittee, Charles Rothfield served as a Special Associate Independent Counsel on the Iran-Contra Inquiry and a consultant to the HUD Independent Counsel Inquiry. Since 1991, Mr. Rothfield has been special counsel at Mayer, Brown and Plat. He served as assistant to the Solicitor General of the United States from 1984-1988 and as Counsel to the State and Local Legal Center from 1989-1990.

Mr. Rothfield was the law clerk to Justice Henry Blackmun of the Supreme Court and to Chief Judge Spottswood Robertson of the United States Court of Appeals for the District of Columbia Circuit. He is a graduate of Cornell University and received a J.D. from the University of Chicago Law School.

Minority Staff Associate Carrie Y. Moore

Prior to joining the Select Subcommittee, Carrie Moore served as the Legislative Assistant to the Minority Chief Counsel for the US House of Representatives Committee on Resources, from 1991-1996. Ms. Moore's duties included researching and drafting legislation, Committee Reports, floor speeches and amendments. Ms. Moore received her Bachelor of Arts degree in Political Science from the University of California, Los Angeles, in June 1991.

Minority Staff Associate Lisa A. Rich

Prior to her appointment to the Select Subcommittee, Ms. Rich served as the legal research analyst for both Independent Counsel Daniel S. Pearson in his investigation of former Secretary of Commerce Ronald Brown and Independent Counsel Joseph E. DiGenova in the investigation of former White House official Janet Mullins. Ms. Rich also worked as a legal research assistant for an investigative law firm. In 1992, Ms. Rich was a majority staff assistant on the US House of Representatives "October Surprise" Task

Force. Ms. Rich has worked under grant for the Marine Corps Historical Center and served as an intern to Representative Charles Rangel (D-NY). Ms. Rich completed her undergraduate degree in Beijing, China and currently is pursuing her J.D. degree from American University.

D. Special Investigators

The Federal Bureau of Investigation detailed three agents to the Select Subcommittee for the purpose of conducting interviews and conducting analysis of documents. They were detailed as a source to be shared by both the Majority and Minority Staff.

Dave F. Olson, Supervisory Special Agent Federal Bureau of Investigation

Special Agent Olson joined the Federal Bureau of Investigation (FBI) in 1970. He has been assigned to FBI Field Offices located in Philadelphia, Boston, Dallas and Milwaukee where he held the position of Supervisor. In addition, he has had two tours of duty at FBI Headquarters, in Washington, D.C., and is currently assigned there.

Peter A. Gulotta, Jr., Special Agent Federal Bureau of Investigation

Special Agent Gulotta joined the Federal Bureau of Investigation (FBI) in 1969. He has been assigned to the Detroit Division, Washington Metropolitan Field Office, FBI Headquarters, and the Baltimore Division. In addition to his assignments as a SA in the field working criminal, foreign counterintelligence and applicant matters, SA Gulotta has served in management as a Field Supervisor, a FBI Headquarters Supervisor, and Assistant Inspector, and Unit Chief in charge of FBI hiring. Prior to reporting to the Select Subcommittee he was assigned to drug investigations in the Baltimore Division of the FBI.

Daniel F. Bradley, Special Agent Federal Bureau of Investigation

Special Agent Bradley joined the Federal Bureau of Investigation (FBI) in 1968. He has been assigned to Phoenix, Arizona and Washington, D.C. He is currently a primary relief supervisory assigned to the Washington Field Office.

ACKNOWLEDGMENTS

The Select Subcommittee would like to express its appreciation to several individuals who assisted our efforts during this investigation.

At the CIA, Sandy Chaloner of the Office of Congressional Affairs particularly deserves warm thanks for her handling of bureaucratic obstacles to get security clearances for Subcommittee staff in record time. Laurie Goodwin of the CIA's Directorate of Operations also deserves commendation for her cheerful accommodation of staff requests for access to CIA materials, frequently on short notice and at odd hours.

Several individuals at the Department of Defense also went well beyond the normal call of duty in helping with the staff clearance process. In particular, we thank Larry Shockey of the Office of Legislative Affairs and Gyl Blakes and Stephen O'Toole of the Office of the Secretary of Defense.

The Select Subcommittee also expresses appreciation for the diligent work of the Capitol Hill Police, specifically Joseph W. Simpson and Penny Wornack, who were instrumental in the processing of security requests. Also, the Police staff responsible for physical and technical security were always immediately responsive to the Subcommittee's sometimes unpredictable needs for their services.

The Subcommittee also wishes to thank the exceptional job performed by the US House of Representatives Office of Official Reporters. Not only did they execute complete and accurate transcripts, but they did so in an extraordinarily timely fashion. The court reporters displayed a tremendous dedication to their work, a willingness to travel, and we are most grateful for their persistent efforts. The reporters were: Ray A. Boyum (chief reporter), Julia C. Bryan, Pamela L. Garland, Marcell D. Stern, and Joseph W. Strickland. The transcribers were: Angela F. Gallacher, Kathleen A. Magner, Jeanne S. Mayer, Bernita A. Parker, and Joyce A. Quinlan. The Subcommittee also appreciates the patience and outstanding assistance exhibited by the reporters' chief clerk, Jo Ann Hooks, who accommodated our ever-changing schedule with aplomb.

The Select Subcommittee expresses its appreciation to the House Permanent Select Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI) for generously sharing their information and materials with our staff during the course of our investigation.

In the course of our investigation, the Select Subcommittee found it necessary to conduct depositions and further investigation overseas. The Subcommittee especially thanks Roderick W. Moore, First Secretary, Embassy Zagreb, for his exceptional assistance during the STAFDEL to the US Embassy in Zagreb, Croatia. Likewise, the Subcommittee thanks John H. Whant, Second Secretary, Embassy Prague, for his assistance upon our arrival at the US Embassy in Prague, Czech Republic.

Finally, the Select Subcommittee expresses enormous gratitude to the Chairman Benjamin A. Gilman and the staff of the Committee on International Relations for their support and assistance in conducting our investigation. We have previously mentioned those individuals most closely associated with our work but would also like to mention Chief of Staff Rich Geroni, Chief Counsel Stephen Rademacher, Professional Staff Members John Mackey, David Jung, Harel Weinberg, and Administrative Director Nancy Bloomer.

B. Correspondence

UNITED STATES SENATE
SELECT COMMITTEE ON INTERNATIONAL RELATIONS
WASHINGTON, DC 20540
April 9, 1996

SCIF 96-1392-C

The Honorable Warren M. Christopher
Secretary of State
Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

On April 5, 1996, the *Los Angeles Times* reported that "President Clinton secretly gave a green light to covert Iranian arms shipments into Bosnia in 1994 despite a United Nations arms embargo that the United States was pledged to uphold and the administration's own policy of not doing business globally as a supplier of weapons." This letter is to inform you that the Senate Select Committee on Intelligence is conducting today an inquiry into alleged U.S. support for Iranian arms shipments to Bosnia. A list of questions of particular interest to the committee is attached for your information.

The committee would appreciate receiving, by April 12, 1996, copies of all published intelligence since January 1, 1994, dealing with arms flows into Bosnia, and of all other statements on this matter that have been provided by an element of the U.S. intelligence community under your jurisdiction to any member or committee of the United States Senate. We also request that each element of the U.S. intelligence community provide -- by April 13, 1996, to the extent possible -- any unpublished material bearing on this subject, such as cables, clearance correspondence, internal memoranda, minutes of meetings, and testimony to other agencies or within the intelligence community. We also request that you inform us if you require your cooperation in making pertinent materials for such interviews, depositions and testimony as the committee may require.

Any questions regarding the committee's inquiry may be addressed to the committee's Staff Director, Lt. General Counsel or Mr. Edward Lavoie of the committee staff, who is leading the staff group handling this inquiry.

Sincerely,

Alan S. Spitzer
Alan Spitzer
Chairman

Robert Kennedy
Robert Kennedy
Vice Chairman

Attachments

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Ambassador Peter Galbraith Memo

EXCISE

2. INT OR STATE SIR/COM 4 DATE 4/11/94 May 6, 1994

CLASSIFIED BY 1100000000 ON 08/04/94 BY 1100000000 FOR COMINT 15 (b) (1)

DECLASSIFY ON: 1100000000 1100000000 1100000000

1. CLASSIFY 1100000000 1100000000 1100000000

2. DECLASSIFY 1100000000 1100000000 1100000000

Memorandum to the File

During an April 29 evening meeting with 15 (b) (1)
 and Ambassador Redman sought for the second 15 (b) (1)
 time to discuss the possibility of providing arms 15 (b) (1)
 transfers from Islamic countries, principally Iran, to the 15 (b) (1)
 COHB.

In reply, I told 15 (b) (1)
 still stood, that I had no instructions from Washington on not 15 (b) (1)
 to advise 15 (b) (1)
 only on what I had said yesterday, but on what I had not said. 15 (b) (1)

Ambassador Redman told 15 (b) (1)
 decision to make. We don't want to be in the position of 15 (b) (1)
 saying no." 15 (b) (1)

Response to several requests for guidance, I was told by Sandy 15 (b) (1)
 Vershbow 15 (b) (1)
 that I was to call 15 (b) (1)
 have instructions at this time. On April 29, at 9:30 P.M., in 15 (b) (1)
 conversation with Sandy Vershbow, Redman conveyed a message 15 (b) (1)
 instructions but my instructions were to say "I had no 15 (b) (1)
 instructions" but that Tony had said this "with raised eyebrows 15 (b) (1)
 and a smile." On April 30, Sandy Vershbow again told me to 15 (b) (1)
 relay a no-instructions message to 15 (b) (1)
 attention to the idea we were not saying no. Finally, in my 15 (b) (1)
 2 telephone conversation, Ambassador Redman conveyed to me an 15 (b) (1)
 instruction from Tony Lake that I not relay the conversation 15 (b) (1)
 with 15 (b) (1)
 recounted Redman and my conversation with 15 (b) (1)

(220)

000382

Chuck have taken it exactly where we want to be"

In a May 6 conversation with Deputy Secretary Talbott, 15 (b) (1)
 Talbott said the instructions were no instructions

short of a statement that the Croats should not facilitate the 15 (b) (1)
 flow of Iranian arms to the Bosnians would be understood as a 15 (b) (1)
 U.S. green light

Talbott said we

embargo.

did not want to be seen as undermining the 15 (b) (1)

I told him of the order 15 (b) (1)
 April 29 conversation and asked if he 15 (b) (1)
 wanted it reported. He said the answer is almost certainly 15 (b) (1)
 yes, but Steve Oram or Sandy Vershbow would be in touch.

Peter W. Galbraith
 Peter W. Galbraith
 Ambassador
 May 6, 1994

To the best of my knowledge, the facts in this statement 15 (b) (1)
 are accurate. The conversations described herein were 15 (b) (1)
 recounted to me by Ambassador Galbraith, and in the case of the 15 (b) (1)
 meeting by the notetaker 15 (b) (1)
 they took place. 15 (b) (1)
 shortly after 15 (b) (1)

Minority Views

Select Subcommittee to Investigate
the United States Role in
Iranian Arms Transfers to Croatia and Bosnia

October 25, 1996

[REDACTED]

Submitted by:
Rep. Lee Hamilton
Rep. Howard Berman
Rep. Alcee Hastings

COMMITTEE ON INTERNATIONAL RELATIONS
U.S. HOUSE OF REPRESENTATIVES
63 1639C
FOR OFFICIAL USE ONLY

FOOTNOTE ERRATA SHEET

to accompany Minority Views, Select Subcommittee to Investigate the U.S. Role in Iranian Arms Transfer to Croatia and Bosnia

NOTE: The following changes to cites are made to the October 23, 1996 version of the Minority Views. The corrections are strictly technical in nature to conform to standard Bluebook format and in no way alter the information already contained within the cite. The relevant footnote number is on the left; the corrected format follows.

- Chapter One, Section Two: The United States Policy Toward Bosnia*
- 1 U.S. Security Council Resolution 713, Sept 25, 1991.
- 37 Hearing on Foreign Policy Oversight before the Senate Committee on Foreign Relations, 103rd Cong. 11-12 (June 30, 1994) (statement of Secretary of State Warren Christopher).
- 41 Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 21 (May 23, 1996) (statement of Deputy Secretary Strobe Talbott) (hereinafter "Talbott SSCI Statement").
- 43 Talbott SSCI Statement, at 30.
- 46 Talbott SSCI Statement, at 36-37.
- 53 Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 48 (May 21, 1996) (statement of Assistant Secretary Richard Holbrooke) (hereinafter "Holbrooke SSCI Statement").
- 73 Holbrooke SSCI Statement, at 26.
- 80 Talbott SSCI Statement, at 22.
- Chapter One, Section Four: Public and Congressional Knowledge of Arms Flows*
- 32 Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 37 (May 23, 1996) (statement of Deputy Secretary Strobe Talbott) (hereinafter "Talbott SSCI Statement").
- Chapter Two, Section One: The No Interception Regime of April 1994*
- 6 Hearing on Bosnia before the House Permanent Select Committee on Intelligence, 104th Cong. 24 (May 30, 1996) (statement of Ambassador Peter Galbraith) (hereinafter "Galbraith HPSCI Statement").
- 117 Hearing on Iranian Arms to Bosnia before the House Permanent Select Committee on Intelligence, 104th Cong. 15 (June 6, 1996) (statement of Former Director, Central Intelligence R. James Woolsey) (hereinafter "Woolsey HPSCI Statement").

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- Chapter Two, Section Two: Communications and Miscommunications at the CIA*
- 5 [In place of Woolsey HPSCI Deposition at 13] Hearing on Iranian Arms to Bosnia before the House Permanent Select Committee on Intelligence, 104th Cong. 15 (June 6, 1996) (statement of Former Director of Central Intelligence R. James Woolsey) (hereinafter "Woolsey HPSCI Statement").
- Chapter Two, Section Four: The May 1994 Convoys*
- 7 Testimony to staff of the Senate Select Committee on Intelligence, 104th Cong. (May 31, 1996) (statement of Jane Green).
- Chapter Two, Section Six: Mystery Flights into Tuzla*
- 25 Testimony to staff of the Senate Select Committee on Intelligence, 104th Cong. 27-28 (statement of Col. Richard Herring) (hereinafter "Herring SSCI Statement").
- Chapter Two, Section Seven: The [redacted] Missile Incident*
- 33 Hearing on Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 80 (May 21, 1996) (statement of Assistant Secretary Richard Holbrooke) (hereinafter "Holbrooke SSCI Statement").
- 41 Holbrooke SSCI Statement at 84; Clark Subcommittee Dep. at 53; Clark SSCI Dep. at 27.
- 48 Clark Subcommittee Dep. at 56; Holbrooke SSCI Statement at 86.
- 50 Clark Subcommittee Dep. at 58-59; Holbrooke SSCI Statement at 87, 88.
- 53 Holbrooke SSCI Statement at 87; etc.
- 55 Hearing on Bosnia before the House Permanent Select Committee on Intelligence, 104th Cong. 22 (May 30, 1996) (statement of Ambassador Peter Galbraith) (hereinafter "Galbraith HPSCI Statement").
- 56 Galbraith HPSCI Statement at 22.
- 82 Galbraith HPSCI Statement at 22; Kahan Dep. at 103.
- 102 Galbraith Select Subcommittee Dep. at 187-188; Galbraith HPSCI Statement at 22.
- Chapter Two, Section Eight: The Fall 1994 Initiative*
- 2 Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 35 (May 21, 1996) (statement of Assistant Secretary Richard Holbrooke) (hereinafter "Holbrooke SSCI Statement").

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EXECUTIVE SUMMARY

On May 8, 1996, the United States House of Representatives voted to establish and fund the Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia (the "Select Subcommittee"). The Select Subcommittee was authorized to investigate and report on all aspects of United States government policy regarding shipments of arms and other assistance from Iran to the countries of the former Yugoslavia from September 21, 1991 until June 1996, the period in which an international arms embargo was in effect for the region. The scope of the investigation included the impact, if any, of such policy upon the safety and presence of United States troops stationed in and around Bosnia, the relations between the United States and its allies, and upon United States efforts to isolate Iran.

In addition, the Select Subcommittee was authorized to investigate and report on communications and representations to the people and the Congress of the United States regarding such policy, the international arms embargo and United States participation in the international arms embargo. Finally, the Select Subcommittee was authorized to determine what actions were taken to review any of these matters or, conversely, to cover up such matters. In order to report its findings, the Select Subcommittee was empowered to review all relevant deliberations, discussions, and/or communications within the United States Government as well as all communications between the United States Government and other governments, organizations, or individuals.

The following Minority Views to the report of the Select Subcommittee are based upon a thorough review of thousands of pages of classified and unclassified materials made available by the Departments of State and Defense (including the National Security Agency), the Central

Intelligence Agency and the National Security Council as well as press reports, materials prepared by Congressional Research Service, and other material in the public domain. In addition, the staff of the Select Subcommittee interviewed and deposited approximately seventy current or former employees of these agencies as well as two foreign nationals. The Minority wishes to thank the individuals who were deposited and interviewed as well as the many employees of the United States Government agencies who spent countless hours identifying and making available relevant documents. In addition, the Minority wishes to thank the investigators detailed to the Select Subcommittee by the Federal Bureau of Investigation for their invaluable assistance.

Select Subcommittee Organization and Structure

Legislative History

On May 2, 1996, the Committee on International Relations (the "Committee") reported House Resolution 416 creating the Select Subcommittee of the Committee on International Relations to investigate the United States Role in Iranian Arms Transfers to Bosnia and Croatia. The Committee also reported House Resolution 416 which, as amended, established a budget of \$995,000 to be used either until the Select Subcommittee ceased to exist or immediately before noon on January 3, 1997, whichever first occurs.¹

Legislative Mandate

House Resolution 416 charged the Select Subcommittee with investigating the following:

¹H. Res. 417, May 2, 1996.

- (1) The policy of the United States Government with respect to the transfer of arms and other assistance from Iran or any other country to countries or entities within the territory of the former Federal Republic of Yugoslavia (the "FRY") during any period that an international arms embargo of the former Yugoslavia was in effect.
- (2) The nature and extent of the transfer of arms or other assistance from Iran or any other country to countries or entities within the territory of the FRY during the period that an international arms embargo was in effect.
- (3) Any actions taken by the United States Government to facilitate or impede transfers described in the preceding paragraph.
- (4) Any communications or representations made to the Congress of the United States or the American people with respect to the matters described in the preceding paragraphs with respect to the international arms embargo of the FRY, or with respect to efforts to modify or terminate United States participation in that embargo.
- (5) Any implication of the matters described in the first three paragraphs for the safety of United States Armed Forces deployed in and around Bosnia, for the prompt withdrawal of United States Armed Forces from Bosnia, for relations between the United States and its allies, and for United States efforts to isolate Iran.
- (6) Any actions taken to review, analyze, or investigate any of the matters described in the preceding paragraphs, or to keep such matters from being revealed.
- (7) All deliberations, discussions, or communications within the United States Government relating to matters described in the preceding paragraphs, and all communications between the United States Government (or any of its officers or employees) and other

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governments, organizations, or individuals relating to such matters.³

House Resolution 416 contains a sunset provision providing for the completion of the Select Subcommittee investigation and submission of its final report within six months of the passage of the resolution, on November 8, 1996.

Treatment of Confidential and Classified Information.

The Select Subcommittee investigation of United States policy and actions in the FRY includes fact-finding with respect to policy deliberations, intelligence gathering (including sources and methods), highly sensitive confidential communications between the United States Government and the governments of other nations, and equally privileged communications among United States Government officials. The Minority believes the utmost care must be taken to avoid disclosure of confidential communications between United States and foreign government officials, policy deliberations within the United States government involving senior officials in communication with the President, and the sources and methods of intelligence gathering. For this reason, the Minority has prepared this Executive Summary in a non-classified format which will be supplemented by extended Minority Views in a classified format. The Minority also has rejected the view, espoused by some, that disclosure of highly confidential or classified information in the media and/or in Congressional hearings places such information in the public domain. Advancing such a view provides leakers of sensitive and classified information with the key to unlock such information at their own discretion, and robs the United States Government of its legitimate interest in protecting such information. Notwithstanding the

³H. Res. 416, May 2, 1996, at 2-4.

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need to protect material which is deserting of protection, the Minority expects the United States Government to exercise the classified application only in cases where the law and executive orders clearly apply and to refrain from keeping material classified which is merely embarrassing.

SUMMARY OF KEY FINDINGS AND CONCLUSIONS

The central issues of the Select Subcommittee investigation include whether the United States Government ordered, organized or otherwise encouraged Iran or any other country to ship arms to Bosnia, whether the United States Government provided a foothold for Iranian operations in Europe; whether the United States Government engaged in covert action without meeting the legal requirement to inform Congress; and how United States policy regarding the arms embargo affected United States relations with the NATO allies.

The consequences of United States policy are not in dispute. In 1994, Bosnia was embroiled in a brutal war that threatened to spill over to other parts of Europe. United States leadership helped bring an end to the fighting among the Bosnian Muslims, Croats and Serbs, to the rape and torture, to the mass executions, and to the sniper attacks on civilians; it has helped create the conditions to build a new Bosnian state, and stopped the war from spreading. In early 1994, hundreds of Iranians were present in Bosnia and Croatia. Today, the Iranian fighters have been forced out.

Based upon the Select Subcommittee investigation, the Minority finds that:

1. From the outset of the Clinton Administration, it was United States policy neither to oppose nor support third party arms transfers to Bosnia-Herzegovina. This policy was embodied in the "no instructions" response to the Croatian Government's question on the

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United States view on the transshipment of arms. It served several important United States interests, and helped establish conditions on the ground that pointed the way to peace.

- During the entire period in which the United Nations arms embargo against the former Yugoslavia was in effect (September 1991 to June 1996), United States policy was to refrain from supplying arms to any party in the former Yugoslavia.
- Pursuant to U.N. Security Council resolutions, the United States agreed in 1992 to participate with its allies in Operation Sharp Guard for the primary purpose of interdicting contraband destined for Serbia.
- Beginning in January, 1993, following the inauguration of President Clinton, United States policy was neither to oppose nor support the shipment of arms to the Government of Bosnia-Herzegovina from other countries, including Iran.
- In November 1994, following enactment of the Nunn-Mitchell amendment, United States officials informed United States allies that the United States would participate in Operation Sharp Guard for the sole purpose of interdicting contraband destined for Serbia. In compliance with the Nunn-Mitchell amendment, the United States would take no action to interdict arms destined for Bosnia or Croatia.
- The "no instructions" policy served important United States interests: the outgunned Bosnian Muslims received arms that helped them survive until such time as the circumstances were ripe for a negotiated peace; the United States avoided a confrontation with NATO; the peacekeeping force and humanitarian aid workers remained in Bosnia; no United States ground troops were forced into a combat situation; and the conditions were established that paved the way to the Dayton Peace Accords in November 1995.

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II. Throughout the period of the United Nations arms embargo, Iran and other Islamic countries supplied arms to the Bosnians.

- During the entire period of the United Nations arms embargo against the former Yugoslavia, all parties to the conflict in Bosnia received arms shipments in violation of the embargo.
- During the entire period of the United Nations arms embargo, the Bosnian Serb military arsenal directed that of the Bosnian Muslims and Croats.
- Beginning in 1991, several Islamic countries, including Iran, began supplying arms to the Bosnian Muslim forces.
- The supply of arms to the Bosnian Muslims declined from summer 1993 to spring 1994 due to the war between the Bosnian Muslims and the Bosnian Croat forces.
- The supply of arms to the Bosnian Muslims increased in spring 1994 due to the Federation Agreement to end the war between the Bosnian Muslim and Bosnian Croat forces, and the delivery of the "no instructions" response.
- The number of Iranians in Bosnia peaked before the spring of 1994, remained constant until the Dayton Peace Accords, and subsequently declined to the handful that is present today.

III. The United States took no action to aid arms transfers to the former Yugoslavia.

- At no time did any United States government official take any action to supply arms to any country or entity covered by the U.N. arms embargo.
- At no time did any United States government official undertake any covert action to supply arms to any country or entity covered by the embargo, or to encourage, aid or

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assist in the shipment or transfer of arms to any country in the former Yugoslavia.

- The proposal to expand the pipeline of arms destined for Bosnia through Croatia originated with Bosnian and Croatian Government officials in the wake of signing the Federation Agreement in March 1994.
- No United States Government official coordinated, cooperated, conspired with or suggested to the Bosnian Muslims, the Government of Croatia, or the Bosnian Croats that the United States be asked to state its view of the transshipment of arms.
- United States Government officials directed Ambassador to Croatia Peter Galbraith to respond that he had "no instructions" when asked for the reaction of the United States government to the transshipment of arms through Croatia to Bosnia by the government of Croatia.
- Ambassador Galbraith carried out his directions correctly and promptly.
- The "no instructions" response achieved United States objectives and was consistent with United States policy: the shipment of arms to Bosnia was not obstructed, the U.N. Security Council Resolution was not violated, and serious conflict with the allies was avoided.

IV. The United States Government did not engage in any covert action and was not

- legally required to inform Congress of its diplomatic exchanges with governments in the region. However, Congress should have been better informed about the "no instructions" exchange.*
- Information about the shipment of arms by Iran and other Islamic countries through Croatia to Bosnia was made available to Members of Congress on dozens of occasions

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- through press reports, intelligence reports, briefings, and in connection with staff and Congressional travel to Croatia.
- The Administration responded accurately to every question from Congress about the shipment of arms to Bosnia from Iran and did not set out to mislead Members of Congress.
 - As a policy matter, however, the Administration chose not to inform Congress about the delivery of the "no instructions" response.¹
 - The "no instructions" response to the question posed by the Government of Croatia was a traditional diplomatic exchange.
 - The Administration does not routinely disclose to Congress sensitive diplomatic exchanges between ambassadors and foreign governments.
 - The failure of the Administration to inform Congress formally about the exchange among Ambassador Galbraith and Special Envoy Redman and a senior official of the Government of Croatia is not a violation of United States law.
 - As a matter of policy, the Administration should have considered informing selected Members of Congress about the delivery of the "no instructions" response.

V. The impact of the Iranian arms shipments on the security of United States military and civilian personnel was minimal.

¹ The Select Subcommittee was told by one former Member of Congress that he was informed about the "no instructions" response at a routine intelligence briefing. It appears that the briefers were acting independently. The relevant intelligence agency has no record that such a briefing occurred. Senior Administration policy makers were not aware of this particular briefing or that information regarding the "no instructions" response had been shared with any Member of Congress.

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- Any threat to United States military and civilian personnel in the region arose from the presence of Iranians and not the shipment of arms, and Iranians had been present in Bosnia since 1991.
- The United States did not commit ground forces to Bosnia in any significant numbers until after the Dayton Peace Agreement was signed in November 1995.
- The Dayton Peace Agreement required the removal of all foreign forces from Bosnia, including organizations and individuals associated with Iran and other terrorist states, and made the United States commitment to "equip and train" the Bosnians conditional upon compliance with the "foreign force removal" requirement.
- The President has certified that Bosnia is in compliance with this requirement, and that Iranian and other foreign forces are present in insignificant numbers only.
- The United States continues to pursue all other avenues to isolate Iran from the world community.
- With respect to the safety of United States military and civilian personnel in Croatia during the period in which the arms embargo was in effect, the United States and Embassy Zagreb maintained a high degree of awareness of terrorist threats through regular Emergency Action Committee ("EAC") meetings, demarches to the Government of Croatia to expel terrorists and otherwise assure the safety of United States personnel, and intense monitoring of possible terrorist activity.

VI. The impact of the Iranian arms shipments on United States-Allied Relations

- United States allies were aware that the United States had been looking the other way regarding arms shipments from third countries to Bosnia; therefore, the "no instructions"

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- response was a continuation of policies that already were tolerated.
- The allies were particularly concerned that heavy weapons and artillery not be transferred to Bosnia and the United States Government was confident that Croatia would not permit heavy weapons to be transhipped.
- United States, NATO, and other allied forces are serving side by side in IFOR and working together to implement the civilian aspects of the Dayton Accords.

VII. The Executive Branch has acted properly in reviewing actions by United States officials and in responding to inquiries from Congress concerning the arms transfers.

- At the request of the White House Counsel, the Intelligence Oversight Board (the "IOB") investigated concerns raised by the Central Intelligence Agency about possible covert action and reported to the President that no United States official had participated in covert action.
- The IOB cooperated with the Select Subcommittee, consistent with the privileged nature of its investigation.
- The National Security Council, the Departments of State and Defense (including the National Security Agency), and the Central Intelligence Agency cooperated with the Select Subcommittee, consistent with the need to protect privileged information.
- No attempt has been made by any official of the United States Government to conceal any information that would be relevant to the investigation.

VIII. Leaks in communication and coordination among United States government officials in Zagreb and Washington led to confusion and erroneous impressions about United States

policy among some United States government officials.

- The "no instructions" response to a senior Croatian Government official was deliberated and formulated by the senior policy makers of the Department of State and the National Security Council over a seventy-two hour period during which direct communications occurred among the President, the Secretary of State, the Deputy Secretary of State and the Undersecretary of State, the National Security Adviser and the Deputy National Security Adviser, and the United States Special Envoy to the Former Yugoslavia and the United States Ambassador to Croatia on the ground in Zagreb.
- The "no instructions" response as well as the report confirming its delivery was conveyed orally in order to keep to an absolute minimum the number of people with knowledge of the response.
- All government-to-government communications between the United States Government and the Government of Croatia were carried out correctly.
- Miscommunication between an intelligence community representative (an "ICR") in Croatia and ~~headquarters~~ led to inaccurate conclusions about the actions of the United States policy makers and to unfounded suspicions.
- Incorrect legal advice provided by ~~headquarters~~ to an ICR in Croatia caused an ICR to form inaccurate legal conclusions about the actions of United States policy makers.
- Inadequate supervision and guidance of an ICR in Croatia by ~~headquarters~~ led to the reporting of speculation and gossip in lieu of intelligence.
- The CIA was informed contemporaneously about United States policy with regard to the arms embargo and the "no instructions" response.
- Communications between the senior officials of the Department of State and the Central

Intelligence Agency concerning the United States policy with regard to the arms embargo imposed in April/May 1994 and September/October 1994.

- Senior officials in the Department of State and the National Security Council were not aware that certain officials within the Central Intelligence Agency had an imperfect understanding of United States policy with regard to the arms embargo.
- Discussions of options for providing arms to the Bosnian Muslims was an appropriate and responsible course of action by officials of the United States Government.
- The United States Government considered and rejected the option of asking third countries to supply arms to the Bosnian Muslims on the grounds that it would be discovered by our NATO allies and could trigger a negative response including the withdrawal of the United Nations Protection Force (the "UNPROFOR"), and the commitment of United States troops to a combat situation.

SUMMARY OF THE INVESTIGATION

The Situation on the Ground in the Spring of 1994.

Iranians and other nationals from Islamic countries have been present in Bosnia since at least 1991, providing military and intelligence training as well as armed support. During the same period of time, shipments of light arms also reached Bosnia from Iran and other Islamic countries.

The humanitarian, political and military circumstances facing the Government of Bosnia-Herzegovina (hereinafter "Bosnia" or the "Bosnian government") and its citizens in the spring of 1994 were dire, especially in the war against the Bosnian Serbs. The enclave of Gorazde was under siege. The capital of Sarajevo was entirely surrounded by hostile Bosnian Serb forces that

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regularly subjected the residents to sniper attacks; cut such city services as electricity and other utilities; and commanded humanitarian relief shipments intended for the starving population.

For the preceding twelve months, the Bosnian Muslims had been in a state of war with the Bosnian Croats. Since Bosnia-Herzegovina is accessible only by air or by overland routes through Serbian or Croatian controlled territory, the war with the Bosnian Croats who were supported by their Croat brothers in Zagreb made it difficult for the Bosnian Muslims to obtain either humanitarian assistance or military shipments.

On March 22, 1994, Bosnian Muslims and Croats signed the United States-brokered Federation Agreement. The Federation Agreement had political, military and humanitarian significance. The Agreement established the peace between the Bosnian Muslims and the Bosnian Croats that was the necessary first step toward a more comprehensive settlement; freed the Muslim and Croat armed forces to direct their attention toward the Bosnian Serbs; and substantially reduced the potential of further human rights violations by the Bosnian Croats and Croats against the Bosnian Muslims. Perhaps most important, the March 1994 Federation Agreement provided the potential for changing the military and political situation in Bosnia by creating a unified military front against the aggression of the Bosnian Serbs.

The International Political Situation in the Spring of 1994.

United Nations Security Council Resolution 713 of September 1991 imposed a legal obligation upon each member nation of the U.N. to respect the arms embargo against the countries of the FRY. By contrast, subsequent U.N. Security Council resolutions that addressed enforcement of the arms embargo (Resolutions 740 and 787) "called upon" each member nation to enforce the arms embargo against other nations, but did not impose a legal obligation to do so.

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The United States allies opposed a multilateral lifting of the arms embargo against the Bosnian Muslims and, through political statements as well as through diplomatic and military channels, informed the United States that a unilateral lifting of the embargo by the United States would cause the withdrawal of European ground forces participating in UNPROFOR.

The arms embargo was not seamless. Throughout the war, arms reached all three combatants. The level of arms shipped to Serbia together with those already in the Serb inventory dwarfed the arms shipped to Croatia and the Bosnian Muslims, both of which had no meaningful armed forces prior to the war. The level of arms shipments to the Bosnian Muslims from 1992 through spring 1994 was tolerated by many of the participants in UNPROFOR and at least some nations that subsequently became members of the Contact Group.

The United States Policy in the Spring of 1994.

The United States Government policy toward the conflict in the former Yugoslavia changed in January 1993 with the inauguration of the Clinton Administration. In contrast to the previous Administration, the Clinton Administration supported the multilateral lifting of the arms embargo against the Bosnian Muslims in combination with allied air strikes against the Bosnian Serbs (the so-called "lift and strike" policy).

However, the United States Government also was committed to serious and policies that reduced to a minimum the potential for a withdrawal of UNPROFOR from Bosnia. A withdrawal would have exposed the Bosnian Muslim military and civilian population to a greater risk of death and destruction, created a humanitarian and military vacuum which United States troops might have been forced to fill, and precipitated a commitment of United States troops to Bosnia to help extract the troops of the NATO allies serving with UNPROFOR. To this end, the

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United States Government participated in Operation Sharp Guard and abided by the arms embargo. In contrast to the previous Administration, the United States neither objected to nor endorsed arms shipments to Bosnia.

The United States Congress began an extended debate that intensified in the spring of 1994 on ways to help the Bosnian Muslims survive. Members of Congress knew the likelihood of a multilateral lifting of the embargo was slim. Therefore, the central issue in the debate was whether the United States should lift the arms embargo against the Bosnian Muslims unilaterally.

The Events of March and April 1994.

The Federation Agreement led the Bosnian Muslims to hope that given the new peace with the Bosnian Croats, they could convince the Croats to permit the transshipment of greater quantities of desperately needed arms through Croats to Bosnia. The Administration and the United States Government were committed to providing military assistance to the Bosnian Muslims in the event that the arms embargo was lifted multilaterally. Many Members of Congress thought the need to save the Bosnian Muslims was so critical that it outweighed any tensions with the allies.

In mid-April 1994, various senior officials of the Government of Croatia indicated to United States Government officials at Embassy Zagreb that the United States would be asked about the United States Government position on the transshipment of arms across Croatian-held territory to the Bosnian Muslims. The question was prompted by the efforts of the Bosnian Muslims to take advantage of the Federation Agreement which the Bosnian Muslims expected would make the Government of Croatia and the Bosnian Croats more willing to let arms reach the Bosnian Muslims.

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The April 28 and 29 Meetings

The question posed by the Government of Croatia to Ambassador Galbraith was what the reaction of the United States Government would be if the Croatian government allowed arms to be transhipped to Bosnia. The response was formulated by the senior policy makers of the State Department and the National Security Council over a seveny-two hour period during which direct communications occurred among the President, Deputy Secretary of State Talbot and National Security Advisor Lake who were en route to California aboard Air Force One to attend the funeral of former President Nixon; Secretary of State Christopher who was in Egypt; meetings with President Mubarak; Undersecretary of State Tarnoff who was serving as Acting Secretary in the absence of the Secretary and Deputy Secretary; and Deputy National Security Adviser Berger who was in Washington.

The options for responding included telling the Government of Croatia that the United States would not object to shipments by third countries, that the United States disapproved of the transshipment of arms through Croatia and would enforce the United Nations arms embargo against third countries strenuously, or telling the Government of Croatia that the United States Ambassador to Croatia had "no instructions." The first alternative would risk unduly United States relations with its allies. NATO members with troops serving with UNPROFOR adamantly opposed a lifting of the embargo as well as any United States role in ensuring that arms reached Bosnia. Any hint of United States approval of arms shipments might threaten an UNPROFOR withdrawal.

The second alternative meant that the United States was taking an active step to deny weapons to the beleaguered Bosnians. It also would undermine and perhaps destroy the

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Federation Agreement. In selecting the third alternative, the policy makers were informed fully of the likelihood that the "no instructions" response would be treated by the Government of Croatia as a signal that the United States did not object to the arms transshipment, and that Iran was likely to be one of the primary arms suppliers. The policy makers also believed that the "no instructions" response to the Government of Croatia was a traditional diplomatic exchange with respect to which no Presidential finding was required.

The "no instructions" response represented a continuation of United States policy in effect since early 1993 to refrain from objecting to arms transshipments to Bosnia. For example, in April 1993, the Croatian D-fense Minister asked United States Special Envoy to the Former-Yugoslavia Reginald Bartholomew for the United States reaction to transshipments of arms (the identical question asked of United States Ambassador Galbraith one year later). Special Envoy Bartholomew responded that it was a decision for Croatians to make, and the United States had no position on the transshipment of arms.

The Actions of the United States Ambassador to Croatia with respect to Senior Government of Croatia Officials

Ambassador Galbraith correctly carried out the direction he received from senior State Department and National Security Council staff with respect to the question posed by the senior official of the Government of Croatia. Prior to delivering the message, Ambassador Galbraith thoroughly and accurately briefed senior State Department and National Security Council officials on the benefits and risks of the various options available for responding to the question posed by the senior official of the Government of Croatia.

Ambassador Galbraith acted appropriately in offering his recommendation of the correct response, but did not let his personal view undermine a fair and objective rendering of the

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benefits and risks of the various options available for responding to the question posed by the senior official of the Government of Croatia. At no time, either before communicating the question to senior State Department and National Security Council officials, or after transmitting the response to the senior official of the Government of Croatia did the Ambassador either exceed his directions or act inconsistently with the obligations of the United States under the U.N. Security Council Resolutions.

The Summer of 1994.

Beginning in May 1994 and continuing throughout the summer of 1994, the shipment of arms from primarily Islamic countries across Croatian-held territory to the Bosnian Muslims increased. Media reports and United States intelligence reporting revealed the extent and nature of the arms shipments as well as the sources of the arms. The shipments consisted solely of light arms and at no time included heavy weapons or artillery.

The allies were aware of the arms shipments, but issued no denunciations or other formal protests to the Croatian government, the United States government, or the governments supplying weapons to Bosnia. The acquiescence of the allies was due in part to the fact that the shipments of light weapons did not constitute a serious threat to the allied troops serving in UNPROFOR. The British indicated that shipments of heavy weapons would cause serious concern because they posed a risk to British troops. United States policy makers were aware that Croatia effectively controlled the type, quantity and quality of the weapons that would be allowed to reach Bosnia, and that Croatia was unlikely to allow the transshipment of heavy weapons that could be used against Croatian forces.

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The Fall of 1994.

In September 1994, senior officials of the Government of Bosnia-Herzegovina approached senior officials of the United States government with a proposal to impose a six month moratorium on efforts to lift the embargo against Bosnia. The Bosnians proposed, in return, that the United States Government provide or arrange to provide military assistance during the six month period. The Bosnians also sought a commitment from the United States to lift the embargo at the end of the six month period if the political and military situation in Bosnia was not stabilized. The United States Government flatly rejected providing arms directly and, after considering the second alternative, decided the United States would not encourage others to provide arms to the Bosnian Muslims. This position was not altered in subsequent months.

United States Government officials did undertake a military, political and intelligence analysis involving the Departments of Defense and State, the Central Intelligence Agency, and the National Security Council to evaluate whether third countries should be encouraged on a secret and confidential basis to transship arms through Croatian-held territory to the Bosnian Muslims. The study involved consultation at a senior level with officials of selected third countries.

The participants in the study concluded that the United States should not encourage third countries to supply arms to the Bosnians. Such an effort could not be kept secret for any significant length of time because the transshipment of arms through Croatian-held territory would have been discovered by UNPROFOR troops and allied intelligence. The allies would consider United States encouragement of third countries to transship arms through Croatian-held territory an affirmative action by the United States Government to break the spirit and letter of the arms embargo. Even more important, a United States effort to encourage transshipment

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would be considered by the allies to pose an unacceptable threat to the safety of allied forces on the ground.

Communications between Ambassador Galbraith and an Intelligence Community Representative Prior to April 28, 1994.

In early December 1993, an Intelligence Community Representative (an "ICR") in Croatia informed [redacted] headquarters that Ambassador Galbraith asked about a covert action. The ICR speculated that the inquiry was motivated by the Ambassador's personal support for the Muslims, and predicted that the Ambassador would propose a covert action program to Washington policy makers. The ICR told the Ambassador that no covert action was underway.

In mid-April 1994, an ICR in Croatia informed [redacted] that approximately five weeks earlier (i.e., mid-March), Ambassador Galbraith raised the possibility of the United States informing the Government of Croatia that the United States would look the other way with respect to arms shipments across Croatian-held territory and the further possibility of Iran serving as the arms supplier and Turkey as the "go-between." The ICR also informed [redacted] headquarters that Ambassador Galbraith said he would raise the possibility with senior policy makers in Washington.

An ICR in Croatia responded to Ambassador Galbraith that such activity would violate United States law, provide Iran with a former foothold in the region, not be sustainable nor deniable, become apparent, be treated as a hostile act by Serbia, encourage Croatian military aspirations, and put United States intelligence assets at risk. The ICR also characterized such activity as a covert action. In mid-April 1994, an ICR informed [redacted] headquarters that, according to the Deputy Chief of Mission (the "DCM"), Special Envoy Charles Redman was

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considering the idea of a covert action along the lines of actions undertaken in Afghanistan.

The accuracy of the reporting on the mid-March conversation by an ICR in Croatia is in doubt due to the non-contemporaneous nature of the reporting; the fact that Ambassador Galbraith denies the conversation took place; and the fact that no senior policy maker in Washington ever was approached by the Ambassador. The accuracy of the information alluded to by an ICR with respect to Special Envoy Redman is in doubt due to the fact that the United States Special Envoy denies ever entertaining such thoughts (let alone expressing them) and the DCM denies ever making such remarks to the ICR.

The Lines of Communication Between an ICR and [redacted]

To a significant extent, the strain in the working relationship between Ambassador Galbraith and an ICR in Croatia was the result of inadequate communication between an ICR and the [redacted]. The ICR executed the directions received from the [redacted] during the period between mid-March and mid-November 1994, but the directions often were incorrect or uninformed.

In April 1994, an ICR in Croatia was informed by [redacted] personnel responsible for Croatia that the proposed action regarding the transshipment of arms described by Ambassador Galbraith in mid-March would, if implemented, constitute a covert action for which a Presidential finding is required. The legal advice given to an ICR was not correct and was rendered without consulting an attorney. Throughout May 1994, an ICR sought— at times in near desperation— guidance from headquarters about the United States policy toward enforcing the arms embargo. The desperation felt by an ICR was due to concern about risking intelligence assets in the collection of information about arms shipments if enforcement of the embargo was not a United States priority.

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As a result of receiving incorrect legal advice, an ICR in Croatia remained deeply concerned from early May until mid-November that the United States Government was engaged in illegal covert activity. The concerns of the ICR caused wholly unfounded suspicions to form about the conduct of Ambassador Galbraith as well as the conduct of other senior United States Government officials involved in policy making in the region.

In April 1994, an ICR in Croatia was informed by [redacted] headquarters that a request made by Ambassador Galbraith to use intelligence channels to communicate policy represented a serious and substantial misuse of intelligence channels. The ICR was never informed that the Director of Central Intelligence, James Woolsey (the "DCI"), did not consider the request to be inappropriate. The failure to inform the ICR that the request was not inappropriate caused the official to harbor unfounded suspicions about the request. An individual at [redacted] headquarters who read the ICR's report and characterized the idea raised by the Ambassador in mid-March as a covert action also caused the ICR to form unfounded suspicions about the conduct of Ambassador Galbraith and other senior policy makers.

Although an ICR was admonished for editorializing in the reporting, the conduct continued throughout the summer and fall of 1994. More effective guidance should have been provided by the [redacted]. Reporting inaccuracies could have been corrected earlier and more effectively if the [redacted] had provided an ICR with accurate legal advice and timely information about United States enforcement of the arms embargo. As a result of inadequate guidance, an ICR in Croatia was not informed until November 15, 1994, that the "no instructions" policy which the Ambassador asked be communicated through intelligence channels was an accurate statement of United States policy. An ICR in Croatia also should have been informed about the limited nature of the DCI's concern about the request made of the intelligence official by the

Ambassador, [redacted]

The Role of the Deputy Chief of Mission.

A key source of reporting by an ICR in Croatia consisted of remarks made by the DCM. In many cases, the remarks were not based on actual knowledge of events, but upon rumor, gossip and speculation. Although the ICR may have been somewhat overzealous in reporting these remarks, the willingness of the DCM to engage in this type of conduct over an extended period of time was a significant contributing factor to the tension at Embassy Zagreb. The degree and extent of the speculation that the DCM shared with the ICR also caused the ICR to form unfounded suspicions about the conduct of Ambassador Galbraith and the conduct of other policy makers.

The Communications between the Ambassador and an ICR in Croatia

Ambassador Galbraith was either unaware of or insensitive to the deep concerns of an ICR in Croatia. Although the lack of awareness or sensitivity is at least partly attributable to the unfounded nature of the concerns, closer communication between the two officials could have lessened the concerns of the intelligence official and avoided some of the confusion between senior Washington officials of the Department of State and the Central Intelligence Agency.

The Communications in May 1994 between the Senior Officials of the Department of State, the National Security Council and the Central Intelligence Agency.

Communications between the senior officials of the Department of State and the Central Intelligence Agency over the United States Government policy and conduct in the Balkans lagged in April/May 1994 and in September/October 1994. On May 5, at the weekly meeting of

Secretary of State Christopher and DCI Woolsey (also attended on this occasion by Deputy Secretary Talbot), the DCI described a request Ambassador Galbraith had made of an ICR in Croatia. The DCI said Ambassador Galbraith had asked an ICR to tell [redacted] that the United States would, in effect, look the other way with regard to the transshipment of arms through Croatian-held territory to Bosnia. ~~XXXX~~

DCI Woolsey's description of the Ambassador's request set off a chain of miscommunication and misunderstanding. Deputy Secretary Talbot knew that Ambassador Galbraith had been instructed to tell the Croats that he had "no instructions." When he heard the words "look the other way," he was therefore surprised. In fact, Ambassador Galbraith did not tell the Croats that the United States Government would look the other way.

The DCI's characterization of the message Ambassador Galbraith had transmitted incorrectly left Deputy Secretary Talbot with the impression that the Ambassador had expressed United States support for the transshipment of arms to the Croatian government. The use of the words "look the other way," by the DCI led Deputy Secretary Talbot to express concern because it was not consistent with the direction given to Ambassador Galbraith. The "no instructions" language was formulated to avoid putting the United States government in the position of either supporting or opposing the transshipment of arms. The "no instructions" response is very different from the language that the DCI attributed to the Ambassador; i.e., saying that the United States would, in effect, look the other way. In fact, Ambassador Galbraith had made his request of an ICR in Croatia so that an earlier and incorrect description of United States policy conveyed to a Croatian [redacted] official could be corrected. ~~XXXX~~

Both the DCI and the ICR were concerned that policy not be communicated through [redacted]. Unlike an ICR in Croatia, however, DCI Woolsey did not question or

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express concern about substance of the request. In fact, the policy on the arms embargo was not even discussed by the DCI and the Deputy Secretary. The decision of an ICR to refuse to use [redacted] channels to convey the Ambassador's message was appropriate. The level of the intelligence official's suspicions and concern about the Ambassador's motives was not. ~~XXXX~~

Subsequent conversations among the senior Department of State officials, Ambassador Galbraith and Special Envoy Redman confirmed that the Ambassador had delivered the proper response to the Government of Croatia. Because the DCI never expressed interest or concern about the Ambassador's conversation with senior Croatian government officials Deputy Secretary Talbot never got back to the DCI to inform him that Ambassador Galbraith and Special Envoy Redman actually had transmitted a "no instructions" response to the Government of Croatia.

For its part, [redacted] expected to inform an ICR in Croatia that Ambassador Galbraith had been instructed to tell the Croatian government that he had "no instructions" regarding the transshipment of arms across Croatian-held territory to Bosnia. The failure of [redacted] to inform the ICR of the "no instructions" response caused the ICR to continue to assume through mid-November 1994 that United States policy was to enforce the embargo against third country transshipments of arms through Croatian-held territory to Bosnia and that Ambassador Galbraith and other United States government officials were taking actions contrary to that policy. ~~XXXX~~

Contributors in Fall 1994 among the Senior Officials of the Department of State, the National Security Council and the Central Intelligence Agency.

In September and October 1994, various intelligence sources incorrectly reported that senior officials of the United States government were engaged in active negotiations with third

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countries to provide arms to the Bosnians. In reality, United States Government officials were trying to determine whether the United States should encourage third countries on a secret and confidential basis to transship arms through Croatian-held territory to the Bosnian Muslims.

Senior officials of the Government of Bosnia-Herzegovina approached United States Government officials with a proposal that the United States Government encourage the shipment of third country arms to the Bosnian military. The United States considered, but did not agree to, the proposal. A great deal of discussion occurred about whether third countries should be encouraged to transship arms. Various United States agencies were tasked with studying scenarios, and conversations were held between senior United States and foreign officials. Intelligence reports began to carry accounts of these discussions, causing the CIA to become concerned unnecessarily that United States was actually planning and committing United States resources to an effort to ship arms to Bosnia.

The CIA expressed concern about the intelligence reporting to National Security Adviser Lake who brought the concerns to the attention of White House Counsel Abner J. Mikva. White House Counsel Mikva recommended to the President that an Intelligence Oversight Board investigation be convened to consider whether (1) Ambassador Galbraith or United States Special Envoy to the Former Yugoslavia Rodman was directly involved in assisting a particular arms shipment reach Bosnia; (2) the Ambassador or the Special Envoy followed the Department of State directions with respect to the response provided the Government of Croatia on April 29, 1994; and (3) the Ambassador and/or Assistant Secretary for European Affairs Richard Holbrooke made an offer to supply arms to the Government of Bosnia-Herzegovina during the summer or early fall 1994.

The Intelligence Oversight Board determined that Ambassador Galbraith and Special

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Envoy Rodman did not knowingly assist in the shipment of any arms to Bosnia and that they followed faithfully the Department of State directions in responding to the Government of Croatia on April 29, 1994. The Intelligence Oversight Board also determined that the Ambassador and Assistant Secretary Holbrooke did not make an offer to supply the Bosnians with arms.

Congressional Action.

Throughout 1994, the Congress conducted an extended debate on United States policy towards the Balkans in which the primary topic was whether the United States should lift the arms embargo against Bosnia unilaterally in the event that the allies refused to lift the embargo multilaterally. No Member of Congress ever called upon the United States to step-up enforcement of the embargo against third countries generally or against Iran in particular, presumably because the United States was under no obligation to enforce the embargo and a majority of the Congress supported the objective of providing arms to the Bosnian Muslims. The Congress and the Administration recognized that the Bosnians needed a larger and more secure supply of arms, shared a strong desire to help the Bosnians, and considered the Bosnian Serbs and the Serb government to bear the overwhelming responsibility for the onset of the conflict. The Administration supported a multilateral lifting of the embargo against Bosnia by the United States and its allies, but opposed a unilateral lift by the United States. The allies opposed both a multilateral and a unilateral lifting of the arms embargo against Bosnia on the grounds that the Serbs (and perhaps the Croats) would perceive the action to be pro-Bosnian and launch preemptive attacks against Bosnian positions; the war would be widened and extended; the potential for peace set back; and the safety of allied troops jeopardized by the intensified

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hostilities.

The Administration supported a multilateral lifting of the arms embargo against Bosnia because of the extraordinarily unfair military impact of the embargo on Bosnia and the atrocities committed by the Bosnian Serbs. The Administration opposed a unilateral lifting of the arms embargo against Bosnia because it believed the allies would consider the move to be extremely hostile and would remove their troops from Bosnia; the United States would be forced to help with the removal which would jeopardize American troops and aircraft; the Bosnian Muslims would be forced to endure a period of great risk and exposure to the Serb forces; and the war would become "Americanized."

The Administration also opposed sending troops to the region except to enforce a peace agreement to which all the parties had agreed or to live up to a commitment made by the Bush Administration to help extract the troops of the NATO allies in the event of an UNPROFOR withdrawal. The Administration recognized, however, that the vacuum created by the departure of the UNPROFOR troops would have created an opportunity for a larger and more sinister Iranian presence than subsequently occurred. The allies tolerated the clandestine arms shipments to Bosnia that had been occurring since 1991, but were very concerned that Congress was prepared to ignore their opposition and authorize a unilateral lift of the arms embargo against Bosnia (as, in fact, each House of Congress did agree to do at different times during the summer of 1994).

The Administration sought to negotiate an agreement with the Congress to formulate and implement a policy that minimized the potential for a conflict with the allies while maximizing the shipment of arms to Bosnia. The Congress certainly knew that arms were reaching the Bosnians: national and international news media and the daily intelligence reports identified Iran

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as a major supplier of arms to Bosnia during the spring and summer 1994. Yet at no time during this period of intense debate on the United States role in the Bosnian conflict did any Member of Congress urge the Administration to stop Iranian arms from reaching Bosnia.

Specific Shipments of Arms

Throughout 1994, United States Government officials assisted in freeing detained humanitarian aid convoys bound for Bosnia even though the officials had no independent means of checking the content of the shipments. The efforts of the United States Government officials were, in all cases, predicated on the assumption that such convoys contained desperately needed humanitarian cargo. Intelligence reporting alleged that Ambassador Galbraith and/or Special Envoy Redman assisted in freeing a detained convoy bound for Bosnia which contained arms shipments in addition to or instead of humanitarian cargo. The suspected convoy was identified as traveling under the auspices of the Bosnian Ambassador to Croatia, although witnesses have testified that the Bosnian Ambassador was involved in more than one convoy which makes it difficult to distinguish which convoy is under discussion.

No evidence or testimony connects Ambassador Galbraith to the suspected convoy. The only evidence or testimony that connects Special Envoy Redman to the suspected convoy is a phone call he received from a Bosnian official. There is no evidence that the Special Envoy knew or had reason to know that the convoy carried arms. Moreover, no evidence exists that the convoy actually carried arms.

Intelligence also reported that Ambassador Galbraith had met with an Islamic cleric and suspected arms merchant. No evidence exists to confirm the presence of the Ambassador and the cleric at any meeting at which arms purchases for or transfers to Bosnia were discussed. The

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Ambassador, the cleric, and other Embassy Zagreb officials present at the meetings deny that any such conversation took place anywhere at any time.

In February 1995, United Nations personnel reported the detection of aircraft at the restricted airport of Tuzla. Some United Nations personnel who allegedly heard or observed the aircraft suggested they could have been United States planes. No evidence confirms these reports. In 1995, a senior official of the Government of Croatia asked the United States to investigate whether the cargo of an aircraft forced to land in Croatian territory contained missiles with chemical warheads. United States personnel examined the warheads and determined that they were not chemical. No evidence exists to suggest that the involvement of the United States extended beyond making the examination.

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SETTING THE STAGE: THE BALKAN WAR

On December 14, 1995, the warring factions in Bosnia-Herzegovina and Croatia formally ended almost four years of fighting with the signing of the Dayton Peace Agreement, an accord spearheaded by United States negotiators. Until that moment, peace had seemed an unlikely prospect for the Bosnian Muslims, Serbs and Croats who had been engaged in nearly four years of brutal war characterized by mass murder, rape, slave labor and the forced expulsion of minorities in the name of "ethnic cleansing." The warring parties were criticized by the international community for their brutality, lack of respect for United Nations "safe havens" and for routinely blocking the passage of humanitarian relief convoys. Some reports calculate the human cost of the Bosnian war at 250,000 killed, 200,000 wounded, and more than 1.3 million displaced refugees.¹

1991-1992: War Begins and the International Reaction.

In June 1991, simmering ethnic tensions within the Socialist Federal Republic of Yugoslavia came to a peak after the legislatures of Slovenia and Croatia voted overwhelmingly to declare their independence. As an immediate response to their secessions, the Yugoslav government issued a statement claiming such declarations to be "illegal" and "illegitimate" and

¹ Larry Q. Newell, *Bosnia Reconciliation: International Initiatives and the UN Role*, CRS Report 96-96 F, July 12, 1996, at 1.

ordered its military to secure their borders.¹ Two days later, the national Yugoslav People's Army ("JNA"), whose Commander and a majority of whose soldiers were Serbian, responded with force and invaded Slovenia to prevent its separation, but the JNA was met with strong resistance. In Croatia, fighting erupted between Croatian security forces and minority Serb irregulars, who had the backing of the JNA. The Croatian forces quickly lost an estimated one-third of the country to the Serb insurgents.² Each of the warring factions, the Serbs, Bosnian Serbs and later the Bosnian Croats, declared regions of territory as "ethnically pure, autonomous" areas under their control, and fiercely fought to protect and expand their holdings.

In response to the civil unrest in Yugoslavia, the European Community ("EC") convened an emergency meeting of the Conference for Security and Cooperation in Europe ("CSCE"). The CSCE urged the warring factions to accept a cease-fire and sent observers to Yugoslavia to monitor their compliance and troop movement.³ However, throughout the summer of 1991, while cease-fires were negotiated, signed, and violated, the JNA continued to launch military offensives in Croatia.

In its third meeting on this subject, the CSCE passed a resolution calling for the imposition of an arms embargo against all parties to the conflict.⁴ On September 25, 1991, the

¹ Julie Kim, *Yugoslavia: Chronology of Events, June 15, 1991 - August 15, 1992*, CRS Report 92-689, at 1 (hereinafter "Kim").

² Steven Woehrl and Julie Kim, *Bosnia - Former Yugoslavia and UN Policy*, CRS Issue Brief IB91089, July 8, 1996, at 3 (hereinafter "Woehrl").

³ CRS Chronology 1991-1992, at 4. The meeting of the CSCE occurred on July 4, 1991 in Prague. *Id.*

⁴ The third meeting was on Sept. 4, 1991, and occurred in Prague. *Id.*

Bush Administration, on behalf of the United States, supported the passage of United Nations Security Council Resolution 713 ("UNSC Res. 713"). The resolution imposed a complete embargo on all weapons and equipment deliveries to the former Yugoslavia - including Bosnia, Croatia and Serbia.⁵ Shortly thereafter, the United Nations Security Council passed Resolution 724, to establish a Sanctions Committee that would monitor compliance with the embargo.⁶ Resolution 713, in concert with United Nations Security Council Resolutions 740 and 787 which addressed the implementation of the embargo, called on all nations to abide by the embargo, but did not legally require countries to enforce the embargo.⁷

The United Nations arms embargo was intended to contain the war and prevent the entry of additional countries into the conflict. One of the consequences of the embargo, however, was to preserve Serbian military superiority over the other republics due to the Serbs' alliance with the JNA and the extensive supply of equipment and munitions within the JNA arsenal.⁸

Throughout 1991, the JNA continued to attack various Croatian cities. In Zagreb,

⁵ United Nations Security Council Resolution 713, adopted on September 25, 1991, Article 6 (cont'g) that "all States shall, for the purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia until the Security Council decides otherwise".

⁶ United Nations Security Council Resolution 724, adopted on December 15, 1991. See Article 5(b) establishing the Sanctions Committee.

⁷ See Chapter One, Section Five for a discussion of these United Nations Security Council Resolutions and the arms embargo. United Nations Security Council Resolution 740 was passed on Feb. 7, 1992, and United Nations Security Council Resolution 787 was passed on Nov. 16, 1992.

⁸ Laura Silber, Allan Little, *Yugoslavia, Death of a Nation* 198 (1993) (hereinafter "Silber").

governmental buildings, including President Tudjman's offices, were shelled. In the coastal town of Dubrovnik, the JNA cut off the power and water supplies, and several telephone links for weeks at a time.¹⁶ In November, the Serbian forces finally left Vukovar, a city of 45,000, in ruins after months of fighting.¹⁷ The first United Nations-sponsored cease-fire went into effect on November 23, 1991, but quickly collapsed, as intense fighting continued elsewhere in Croatia.¹⁸

In January, 1992 the first European Community casualties were reported. Five military observers sent by the CSCE were shot down in their marked helicopter.¹⁹ From this moment, it was evident that a larger international presence was needed to maintain peace in the region. Shortly thereafter, the United Nations sent a team to Croatia to lay the groundwork for the deployment of international peacekeeping troops. With United States support, the passage of United Nations Resolution 743 authorized the establishment of the 14,000-strong United Nations Protection Force ("UNPROFOR") for an initial service of twelve months.²⁰ The troops were composed of platoons from many nations including Great Britain, France, Canada, Egypt, Malaysia and the Russian Federation and were dispatched throughout the region in areas of

¹⁶ *Id.* at 14.

¹⁷ *Id.* at 17.

¹⁸ *Id.* at 18.

¹⁹ *Id.* at 20.

²⁰ *Id.* at 24; see also, United Nations Security Council Resolution 743, passed (Feb. 21, 1992) at Article 2 (which establishes and outlines the responsibilities of the United Nations Protection Force).

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heavy fighting and relative calm.²¹

1992-1993: Bosnia Enters the War.

In early 1992, the battle lines expanded into the territory of Bosnia-Herzegovina. In April, Serb militiamen and the Yugoslav Army launched attacks against Bosnian Government forces after Bosnia became the third country to declare its independence from Yugoslavia. The most ethnically diverse of the former Yugoslav states, Bosnia had been a melting pot of Serbs, Croats and Muslims. Although the Bosnian Government's predominantly Muslim army was larger than the Bosnian Serb Army ("BSA"), the alliance between the Bosnian Serbs and the JNA tipped the balance of firepower heavily in favor of the BSA, which quickly seized more than two-thirds of the territory and surrounded the capital city of Sarajevo.²² In fact, after the Bosnian Serb Army invaded Sarajevo on May 2, 1992, the front-lines in the Sarajevo suburbs established by the BSA partitioned the city and held on for the rest of the war.²³ The tremendous disparity in weapons is described in a New York Times article that noted:

[T]he Serbian forces in Bosnia have 300 tanks and the Bosnian Muslims just 2. The Serbian forces have 200 armored personnel carriers and the Muslims 1 or 2. The Serbian forces have 600 to 800 artillery pieces to two dozen in the hands of the Muslims.²⁴

²¹ Julie Kim, *UNPROFOR Deployment as of mid-March 1994*, CRS, Sept. 24, 1996.

²² *Wohland* at 6.

²³ *Silber* at 233.

²⁴ *Michael Gordon, Iran Said to Send Arms to Bosnians*, New York Times, Sept. 10, 1992, at A10 (hereinafter "Gordon") (citing United States intelligence reports).

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As these numbers would suggest, Serb forces easily outgunned the Bosnian Muslims, quickly acquired vast expanses of territory and inflicted high numbers of civilian casualties.

Unlike the other warring factions whose patrons in Croatia and Serbia provided them with military and financial support, the Bosnian Muslims were forced to look beyond their immediate borders to acquire arms and other support. Despite the international arms embargo, the Bosnian Government forces acquired some small arms by various means including purchasing arms on the international grey market, receiving smuggled weapons from private humanitarian aid organizations, producing some small arms, and receiving clandestine shipments of weapons via an arms pipeline through Croatia.¹⁹ Other countries came to the aid of the Muslims: Turkey and Pakistan smuggled small arms to the Bosnian Muslims; the Sultan of Brunei paid for a shipment of anti-tank missiles from Malaysia; and Saudi Arabia donated funds to the Bosnian Government to purchase arms from Hungary and Argentina.²⁰ The materials acquired by the Bosnian Muslims in the early years of the war, however, did little to sustain the troops or mount a strong opposition against the Serb forces. Bosnian President Izetbegovic called upon the United Nations on several occasions to lift the arms embargo and allow his forces

¹⁹ James Risen and Doyle McKinnis, *US had Options to let Bosnia Get Arms, Avoid Iran, Los Angeles Times*, July 15, 1996, at A1 (which notes that Iran sent modest shipments of arms to Bosnia beginning in 1991); *Overlander*, "US Had Options," see also, John Pomfret, *How Bosnia's Muslims Dodged Arms Embargo*; *Brief Agency Requested Aid from Medicine, Radical Groups*, *The Washington Post*, Sept. 22, 1996, at A1 (illustrating how Bosnia's government purchased hundreds of millions of dollars worth of black-market weapons and smuggled shipments into Bosnia via humanitarian aid cargo transport); United States Department of State Fact Sheet, *Basic Chronology of the Bosnia Arms Embargo-Iran Connection* (hereinafter "D.O.S. Chronology").

²⁰ *US Had Options* at A6.

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access to heavy weapons to defend themselves, but his efforts were unsuccessful.

The violence escalated during the spring of 1992. Although cease-fires had been negotiated and signed, none had held successfully.²¹ Beginning in 1992, successive diplomatic initiatives sponsored by the United Nations and the European Union were rejected. Numerous cities in Bosnia-Herzegovina including Mostar, Gorazde and Sarajevo came under heavy attack from the Bosnian Serb forces, killing many, trapping United Nations peacekeepers, and making the delivery of humanitarian aid nearly impossible.²² In May, under international pressure and the threat of Western sanctions, the Yugoslav Army announced its withdrawal from the conflict, but allowed its soldiers who were born in Bosnia-Herzegovina to remain and fight with their weapons and equipment, thus further solidifying the superiority and military strength of the Bosnian Serbs. In June, Serbian militia forces fiercely attacked Sarajevo, deploying rockets, mortars, and artillery.²³ In July, an international airlift to provide food, medicine and relief supplies to the starving citizens in Sarajevo began.²⁴

Despite the reported offenses by all factions, in April of 1992 the European Community and the United States formally recognized the countries of Bosnia-Herzegovina, Croatia and

²¹ CRS Chronology 1991-1992. Several cease-fire agreements had been negotiated in 1992. By June 1, 1992, at least eight had been signed: January 3, 1992, April 5, 1992, April 12, 1992, April 15, 1992, April 23, 1992, May 6, 1992, May 15, 1992, and June 1, 1992. *Id.*

²² *Id.* at 29.

²³ *Id.* at 33.

²⁴ *Id.* at 36. Before the airlift ended, some three-and-one-half years later in January 1996, approximately 13,000 flights carrying an estimated 18,000 tons of medicine and 160,000 tons of food had landed, making the Sarajevo airlift the largest in history.

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Slovenia, and lifted the economic sanctions imposed upon them. In May, these countries gained admission to the United Nations.²⁷ On May 30, 1992, the United Nations Security Council imposed sweeping economic sanctions on the Federal Republic of Yugoslavia ("FRY"), now consisting solely of Serbia and Montenegro, for its role in promoting the creation of an autonomous Serb state and supporting Serbian guerrilla forces, federal Yugoslav army units and the Bosnian Serb Army.²⁸ Almost one year later in April 1993, these sanctions were further tightened by the United Nations Security Council which banned the transshipment of goods through Serbia and Montenegro and froze financial assets abroad.

In the summer of 1992, incidents of ethnic cleansing were widely reported. In the northeast Bosnian city of Brcko, Serb forces systematically executed Muslim men in the prison camp of Luka. Inmates were selected to be interrogated, beaten and killed almost every day over a two week period.²⁹ In Bosanski Samac, Serb military forces overran the city and carried out an orchestrated campaign of terror to force Bosnian Croat and Muslim residents to leave the area.³⁰ Newsday described the expulsion of 1,800 Muslims from the Bosnian village of Kizhik on a train as "the latest twist of cruelty in an already brutal war . . . part of a policy by the Serbian-led

²⁷ CRS Chronology 1991-1992 at 31.

²⁸ Woodard at 10; see also, United Nations Security Council Resolution 757.

²⁹ The International Criminal Tribunal for the Former Yugoslavia, Indictment by the Prosecutor of the Tribunal against Jelicic and Cacic, (World Wide Web at: gopher://gopher.igc.spc.org:7030/00/cases/Jelicic).

³⁰ The International Criminal Tribunal for the Former Yugoslavia, Indictment by the Prosecutor of the Tribunal against Miljkoric, Simic, Tadic, Todoric and Zanic, (World Wide Web at: gopher://gopher.igc.spc.org:7030/00/cases/Miljkoric).

Yugoslav government to ethnically cleanse historically Muslim areas of Bosnia."³¹

Detention centers and prisoner of war camps also were uncovered. Prisoners freed from the camps described them as places where "beatings and torture are an integral part of the daily regime" and venues of "executions, mass deportations in closed freight cars, forced marches and a regime of starvation and abandonment to the elements."³²

In August, a television crew from the British Independent Television News visited the prison camps of Omarska and Trnopolje, located in northern Bosnia. Despite the tight control of prisoner interviews and access areas, the footage shot by film crews "was reminiscent of scenes from Nazi concentration camps. Gaunt men with protruding ribs stared listlessly from behind a barbed-wire fence."³³ Many observers believe that throughout the war, "war crimes" were an integral component of the political and military strategy of the Bosnian Serb leaders. Although Bosnian Serbs were perceived to have committed the greatest number of war crimes, Croats and Muslims also participated in episodes of indiscriminate killing and violence.³⁴ The International Red Cross claimed that it had been barred from entering most detention centers, but that all sides of the Yugoslav conflict were committing these atrocities.³⁵ The United Nations felt the need to

³¹ Roy Gutman, *Ethnic Cleansing: Yugoslavia Try to Deport 1,800 Muslims In Hungary*, Newsday, July 3, 1992, at 5.

³² Roy Gutman, *Prisoners of Serbia's War: Tales of Hunger, Torture at Camp in North Bosnia*, Newsday, July 19, 1992, at 7.

³³ Ron Howell, *ALL IN: Pressure for Armed Reply*, Newsday, Aug. 7, 1992, at 5.

³⁴ Margaret Malyung Lee, *Raphael Perl: Seven Woodard, Bosnia War Crimes: The International Criminal Tribunal for the Former Yugoslavia and UN Policy*, CRS Report 96-404F, May 6, 1996, at 1 (hereinafter "CRS: War Crimes Tribunal").

³⁵ CRS Chronology 1991-1992 at 41.

take action and established the War Crimes Commission in October 1992, to investigate the reported offenses.³⁴

In early 1993, the United Nations Security Council passed Resolution 808, establishing the International War Crimes Tribunal.³⁵ The Tribunal was authorized to investigate and prosecute persons who were responsible for committing serious violations of international humanitarian law within the territory of the former Yugoslavia since 1991, including violations of the laws of war, genocide and crimes against humanity, and violations of the Geneva Convention - intended to protect civilians and prisoners of war from willful killing and torture.³⁶

President Izetbegovic charged that Bosnian Muslims were the victims of "genocide" and implored the world community to defend their freedom and their ability to defend themselves as its "duty."³⁷ Increasingly, Islamic nations complained that the rapid response against the Serb aggressions by the United Nations and western countries condemned the persecution of Muslims. The forty-seven countries of the Organization of the Islamic Conference ("OIC") were naturally sympathetic toward the Bosnian Muslims. The OIC members also were bound by the United

³⁴ CRS War Crimes Tribunal at 2; see also, United Nations Security Council Resolution 780, adopted Oct. 6, 1992, at point 2 (establishing the Commission of Experts to collect evidence of atrocities).

³⁵ Id. at 4; see also, United Nations Security Council Resolution 808, adopted Feb. 22, 1993, at point 1 which provides that "an international tribunal shall be established for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991."

³⁶ Id. at 6-7; see also, United Nations Security Council Resolution 808.

³⁷ Saul Friedman, Bosnia's Plea to Summit: Use Forces to Destroy Serb Arms, *Leader Aids*, *Newsday*, July 10, 1992, at 7.

Nations arms embargo, although their degree of adherence to the embargo varied. In December, 1992, the OIC passed a declaration calling for the lifting of the arms embargo.³⁸ President Izetbegovic responded to outpourings of support from the Islamic community with public accolades and declared that "we consider Iran as our greatest friend in the world."³⁹ The American public was increasingly sympathetic to efforts to arms the Bosnian Muslims and neither the Bush Administration nor Members of Congress condemned Izetbegovic for expressing such views about Iran.

Iran views itself as the "protector of oppressed Muslims worldwide" and was particularly active in its support of the Bosnian Government forces.⁴⁰

Beginning in 1992, began implementing plans to send diplomatic, economic, and humanitarian assistance to the Bosnian Muslims to make up for the inability of the United Nations to intervene on behalf of the Bosnian Muslims.⁴¹ Additionally, Iran supplied clandestine military aid and personnel to the Bosnian Government Army.⁴²

In September 1992, western news and Croatian government sources reported the first

³⁸ Kenneth Katzman, Julie Kim and Richard Bear, *Bosnia and Iranian Arms Shipments: Issues of US Policy and Involvement*, CRS Report 96-560F, Apr. 24, 1996 at 1.

³⁹ FBIS, *Iranian Daily Intermedia Izetbegovic*, Dec. 30, 1992, at 27.

⁴⁰ See Chapter Three, Section One for a discussion of Iran's activities in the region between 1991 and 1996.

⁴¹ DCI Interagency Balkan Task Force, *Iranian Arms Shipments*, May 3, 1996, at 1.

substantial leak and "one of the most hezren efforts yet" to circumvent the arms embargo.⁴⁷ An Iranian Boeing 747 had secretly landed in Zagreb, Croatia, carrying more than 4,000 guns; more than one million rounds of ammunition; and forty Iranians in an "apparent attempt by the Islamic state to smuggle weapons to Muslim forces."⁴⁸ The Iranian 747 flight appeared to confirm rumors that Iran and other Islamic countries had been involved in providing weapons and aid to the Bosnian Muslims in violation of the arms embargo.⁴⁹

Although the Muslim forces were desperate for weapons, President Bush responded to the report of the Iranian weapons delivery by officially protesting to Croatia and the Croatian Government impounded the arms. Secretary of State Eagleburger recalled, "We made it very clear that we were adamantly opposed to this going on."⁵⁰ U.S. Department of State officials condemned Iran's attempt to skirt the United Nations arms embargo, but acknowledged that previous Iranian flights also may have included illegal arms shipments.⁵¹

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⁴⁷ Douglas Jehl, *Iranian Effort to Send Bosnia Arms Reported*, Los Angeles Times, Sept. 10, 1992, at A1, A6.

⁴⁸ *Id.*

⁴⁹ FBIS, *Iranian Minister Denies Islamic Arms Shipments*, Sept. 10, 1992, at 23.

⁵⁰ Janet Risen and Doyle Mahanna, *US OKed Iranian Arms for Bosnia*, *Official's Say*, Los Angeles Times, Apr. 5, 1996, at A1.

⁵¹ Michael Gordon, *Iran Said to Send Arms to Bosnians*, *The New York Times*, Sept. 10, 1992, at A10.

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1993-1994: Clinton's Bosnian Policy and the Muslim-Croat War.

During the 1992 Presidential campaign, President Clinton criticized President Bush for taking little action to support the Bosnian Muslims.⁵² President Clinton publicly opposed the arms embargo and argued the United States should do more, including conducting air strikes, to protect Bosnia.⁵³ Once elected, however, Clinton's foreign policy to aid the Bosnian Muslims was constrained diplomatically and militarily. President Clinton faced strong resistance to multilaterally lifting the arms embargo from the European allies, particularly Great Britain and France which feared that a retaliatory strike by the Bosnian Serbs would endanger their troops on the ground. In the absence of necessary international support for a multilateral lift of the embargo, Congress supported a unilateral lift to allow the United States to supply weapons directly to the Muslims.⁵⁴ However, the allies opposed unilateral action by the United States vigorously. The Administration shared the allies' opposition to unilateral action out of concern that any Serb retaliation would endanger UNPROFOR troops, that our allies would withdraw their troops, and because unilateral action by the United States would be a direct violation of the international arms embargo.⁵⁵ The Administration was concerned about an adverse effect

⁵² US Had Options at A6.

⁵³ *Id.*

⁵⁴ See Chapter One, Section Three for a discussion of actions in Congress urging multilateral and unilateral lifting of the United Nations arms embargo.

⁵⁵ U.S. Department of State Fact Sheet: *US Policy Toward Potential Arms Shipments to Bosnia*, 1994-Present, Apr. 29, 1996, at 1.

unilateral action would have on the adherence to and the success of other embargoes against Iraq, Libya, and North Korea.

In early 1993, the Clinton Administration supported a comprehensive peace settlement (the "Vance-Owen plan") sponsored by the two Chairmen of the Peace Conference on former Yugoslavia, United Nations envoy Cyrus Vance and European Community mediator Lord David Owen. The Vance-Owen plan would apportion Bosnia into ten provinces, primarily defined along ethnic lines. The plan would create ten separate provinces, of which three would be defined by a Serb majority, three would have a Muslim majority, two would have a Croat majority, one would be a Croat-Muslim province, and the tenth would be the city of Sarajevo, which would retain a presence of all ethnicities.⁵² Throughout the first months of 1993, the two mediators negotiated with the leaders of each warring faction to garner support for the peace settlement. The Serbs rejected the plan because it required them to return some Muslim pockets of territory they had already conquered and because the Serb provinces would be isolated from each other. Bosnian President Izetbegovic criticized the plan for imposing ethnic partitions across Bosnia, although he felt pressure to accept the plan to gain international approval. In contrast to the other factions, the Croats supported the plan because it fulfilled their objective of creating autonomous Croat provinces that rejoined Croatia and extended into Bosnia.

The Bosnian Serb Assembly voted to reject the plan and it lost the support of the United States for three reasons: first, the United States feared that the plan, if adopted, would be unenforceable; second the Bosnian Government continued to strongly criticize the plan; and

⁵² Silber at 288.

third, it would have required 50,000 ground troops to enforce and the United States maintained its reluctance to send peacekeeping troops from the United States armed forces into the region.⁵³ After abandoning its support for the Vance-Owen plan, President Clinton looked for other ways to support a multi-ethnic state in Bosnia.

During his first six months in office, President Clinton worked to establish a more active Bosnian policy. In June, Secretary of State Christopher announced the first commitment of United States peacekeeping ground forces to the war, offering 300 United States troops for the UNPROFOR force in Macedonia.⁵⁴ The President also worked successfully within the international arena to urge the North Atlantic Council to employ "stronger measures including air strikes" against Bosnian Serb forces (action the NATO Council endorsed).⁵⁵ Preparations for the use of NATO air power began immediately after the endorsement.⁵⁶

In late April 1993, increasing tensions between the Bosnian Muslims and the Croats erupted into violence. For almost one full year, the Bosnian Muslims found themselves warring on two fronts. Ethnic tensions, an influx of refugees who had been "ethnically cleansed" from other cities, and the proximity of Croatian HVO troops and Bosnian Army troops in the same territory caused reciprocal skirmishes to grow into larger military battles.⁵⁷ The war

⁵³ *Id.*

⁵⁴ Julie Kim and Steve Woodard, *Bosnia-Herzegovina Conflict: Chronology of Events in the Former Yugoslavia* June 1, 1992-May 31, 1994, CRS Report 94-522F, June 13, 1994, at 1 (hereinafter "CRS Chronology 1993-1994").

⁵⁵ *Id.* at 3.

⁵⁶ *Id.*

⁵⁷ Silber at 294.

between Bosnian and Croat forces was characterized by surges through Croat villages by the Bosnian Army, burning and looting as it went.³⁸ For its part, Croatian HVO troops rounded up Muslim men in conquered villages.³⁹ Incidents of ethnic cleansing, massacres and continued fighting between the Muslims and Croats were widespread.

At the same time, the Bosnian Serb Army continued to advance against the Muslim forces. In response to the ruthless attack on the Bosnian city of Srebrenica and its subsequent surrender to the Serb forces in April 1993, and to heavy fighting elsewhere, in June 1993, the United Nations Security Council passed Resolution 836 expanding the mandate for the UNPROFOR troops to include protection of six Bosnian "safe areas."⁴⁰ The areas included Sarajevo, Bihac, Srebrenica, Tuzla, Gorazde and Zepa and allowed "all necessary measures" including air power to support UNPROFOR in the protection of the safe areas.⁴¹ The designation of the safe areas required UNPROFOR to progress from peacekeeping to peace-enforcement in these areas and marked the first time in the conflict that the United Nations relinquished its strict neutrality and committed to the protection of one side over the other.⁴² In reality, however, the declared "safe areas" were far from safe.

As 1993 continued, prospects for peace in the region remained slim. United States

³⁸ *Id.* at 299.

³⁹ *Id.*

⁴⁰ CRS Chronology 1993-1994 at 1; see also, United Nations Security Council Resolution 836, passed June 4, 1993; United Nations Security Council Resolution 824, passed May 6, 1993.

⁴¹ CRS Chronology 1993-1994 at 1.

⁴² Silber at 274.

diplomats attempted to negotiate a cease-fire and union between the Bosnian Croats and Bosnian Muslims in August 1993, but provocations and broken promises on both sides caused the fighting to continue into the fall and winter.⁴³ In October, the United Nations Security Council passed a resolution extending the mandate for the UNPROFOR forces until March 31, 1994.⁴⁴ In November, Bosnian Croat shelling destroyed the famous Old Bridge in Mostar, an international landmark built by the Ottoman Turks in 1566 and a symbol of past unity in a town where the ethnically-diverse residents had lived in mutual tolerance.

Under pressure from the United States and other nations that advocated the lifting of the arms embargo, the United Nations General Assembly passed a non-binding resolution on December 20, 1993, urging the Security Council to lift the embargo on the Bosnian government.⁴⁵ However, the Security Council did not have the votes to enact such a measure.

Negotiating the Federation Agreement

In February of 1994, Bosnian Serbs attacked a crowded market square in Sarajevo, killing sixty-eight people, wounding more than 200 and sparking worldwide outrage.⁴⁶ The Clinton Administration responded to the incident by calling for NATO air strikes against Serb gun

⁴³ Silber at 320.

⁴⁴ CRS Chronology 1993-1994 at 5; see also, United Nations Security Council Resolution 871, Article 11, adopted Oct. 4, 1993, which extends the mandate for UNPROFOR for an additional period terminating on Mar. 31, 1994.

⁴⁵ CRS Chronology 1993-1994 at 6.

⁴⁶ *Id.* at 8.

emplacements and encouraging the Muslims and Croats to present a unified defense against the Serbs. The Serb forces agreed to comply with the NATO demands, thereby avoiding the threatened air strikes. The front lines did not remain quiet for long. Later in February 1994, the first combat action in the 45-year-old history of NATO was initiated when United States fighter pilots downed four Bosnian Serb planes illegally flying in a no-fly zone.⁶¹

Throughout the Muslim-Croat conflict, mediators from the United States sought to exert pressure on both sides to enter into peace negotiations. In February, the United Nations issued an ultimatum to Croatia to pull its army out of Bosnia or face sanctions and world isolation.⁶² The threat worked. Croatia agreed to withdraw its army and commence serious negotiations for a Federation. By the end of February, the Bosnians and Croats were en route to Washington and, over the next four days, negotiated a draft agreement. Despite the year long violence between the Muslims and Bosnian Croats, the two parties signed an accord establishing a fragile alliance. President Clinton hailed the pact as "one of the first clear signals that parties to this conflict are willing to end the violence and begin a process of reconstruction," and *The Los Angeles Times* noted that the agreement stirred "hope for a comprehensive settlement" in the Balkans.⁶³

The impact of the Federation Agreement was instrumental to the survival of the Bosnian Muslims until the signing of the Dayton Accords the following year. The most important and immediate consequence of the Agreement was to enable the Bosnian Army to focus its energy on

⁶¹ *Id.* at 10.

⁶² Silber at 322.

⁶³ Paul Rieker, *Muslims, Croats Sign Accord for New Federation*, *Los Angeles Times*, Mar. 19, 1994, at A1.

the war with Serb forces, and to create a Muslim-Croatian unified defense to put additional pressure on the Serbs to negotiate a peace settlement.⁶⁴ The Bosnian Army's supply of weapons and munitions increased as a result of access to Croatian weapons caches and the arms pipeline was reopened through Croatian territory.⁶⁵ The alliance also enhanced the delivery of needed humanitarian aid to Muslim enclaves.⁶⁶

Despite the momentum provided by successful negotiations to establish the Muslim-Croat Federation, peace with the Bosnian Serbs was not forthcoming. The Serb forces continued to hold seventy percent of the territory in Bosnia. In April 1994, gunfire and explosions erupted again in Sarajevo.⁶⁷ At the same time, the Serbs launched attacks against three United Nations "safe havens." Srebrenica and Zepa fell quickly. Gorazde, a city of 65,000 strategically located between two large Serb-held towns in the Drina Valley, was subjected to a devastating siege. The Bosnian Serbs were attempting to consolidate their territory in the event that a quickly-moving peace process would freeze existing boundaries.⁶⁸ United Nations officials, however, interpreted the vigorous attacks on the cities in northern Bosnia as retaliation against the Federation agreement.⁶⁹

⁶⁴ Silber at 319; see also, Steven Greenhouse, *Muslims and Bosnian Croats Give Birth to a New Federation*, *New York Times*, Mar. 19, 1994, at A4.

⁶⁵ Silber at 319.

⁶⁶ *Id.*

⁶⁷ Julie Kim, *Detailed Chronology of Events in Bosnia during March-April 1994*, CRS Report, July 18, 1996, at 4 (hereinafter "CRS Detailed Chronology").

⁶⁸ Silber at 325.

⁶⁹ *Id.*; CRS Detailed Chronology at 4.

The siege of Gorzade was particularly harsh. United States Special Envoy to the Former Yugoslavia Charles Redman characterized the attack as "very, very brutal . . . we simply had a bunch of helpless civilians being pounded at point blank range by Serbian tanks."⁷⁷ At the height of the assault, Serb gunners were hitting the city an average of once every twenty seconds for an entire day. Bosnian President Izetbegovic responded with another international call for weapons to be used in self-defense.⁷⁸ The events in Gorzade made absolutely clear the inability of the UNPROFOR forces to protect the "safe areas" under the existing rules of engagement.⁷⁹ The situation was becoming increasingly dangerous to citizens of Gorzade; the international relief agency personnel and the United Nations personnel in the city.⁸⁰

UNPROFOR Commander General Rose demanded Serbian General Mladic put a stop to the attacks on Gorzade or face NATO action, but the attacks continued.⁸¹ In what President Clinton described as "a clear call to the Serbs to pull back from Gorzade and resume the negotiations," NATO jets began to carry out air strikes against the Serb forces with increasing frequency and intensity to protect the United Nations personnel and civilians.⁸² Bosnian Serb leader Karadzic retaliated by detaining United Nations troops and officials, banning American

⁷⁷ Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 29 (hereinafter "Redman Subcommittee Dep.").

⁷⁸ CRS Chronology 1993-1994 at 14.



⁷⁹ Silber at 327.

⁸⁰ CRS Chronology 1993-1994 at 13.

journalists from Serb territories and declaring United Nations Commander Rose persona non grata.⁸³ The retaliation by the Serb forces hardened allied opposition to a unilateral lifting of the arms embargo. Bosnian Serbs also blocked United Nations relief convoys from bringing needed food and medicine to Gorzade.⁸⁴ Near the end of April, Bosnian Serb troops began to comply with NATO deadlines to withdraw their heavy weapons and air strikes diminished.⁸⁵

While the Bosnian Serbs unleashed fierce attacks on the "safe areas" and other Bosnian enclaves, and the number of civilian casualties skyrocketed, the United States Congress hotly debated the issues of the arms embargo. During the spring of 1994, both Houses voted to mandate the lifting of the embargo.⁸⁶ The disproportionate impact of the arms embargo had become increasingly clear to the Administration, Congress, and the American public. Moreover, the new Federation Agreement between the Croats and Muslims offered the first real opportunity to forge a peace in the region.

This is the moment in the history of the Balkan conflict when the United States Ambassador responded to the President of Croatia that he had "no instructions" with respect to whether the United States would object if Croats allowed arms shipment from other countries to pass through its territory into Bosnia.

Heavy fighting between the BSA and Bosnian Government forces resumed near the town

⁸³ Id. at 14.

⁸⁴ Id. at 15.

⁸⁵ Id. at 16.

⁸⁶ See Chapter One, Section Three and related appendices on Congressional activity and policies relating to the United Nations arms embargo.

of Bihac and in Gorazde for several days in July. In August, President Milosevic of Serbia announced that his government was going to sever its remaining political and economic ties to the Bosnian Serbs.⁴⁶

The FR Y government agreed to the deployment of international monitors to verify Yugoslavia's embargo of goods to the Bosnian Serbs. The Contact Group suspended some of the sanctions imposed on Yugoslavia by the United Nations and in September, the United Nations Security Council approved Resolution 943, easing sanctions on Serbia-Montenegro.⁴⁷

As winter approached, military skirmishes on the ground in Bosnia continued. In November, continued and heavy fighting was reported throughout Bosnia and the situation in Bihac, one of the U.N. protected safe havens, escalated to a level which mandated more NATO air strikes. Also in November, President Clinton signed into law the Nunn-Mitchell Amendment to prohibit the expenditure of appropriated funds to enforce the arms embargo against the Bosnian Muslims.

The Effects of the Strategic Military Imbalance Between the Warring Factions

The Bosnian Muslim forces clearly were undermanned and outgunned during the war. As Secretary of Defense Perry would later testify in 1996, "an important and significant factor in

⁴⁶ CRS Chronology 1994-1995 at 3.

⁴⁷ *Id.* at 4; see also, United Nations Security Council Resolution 943, passed September 23, 1994.

the cause of this war was the dramatic imbalance of forces which existed."⁴⁸ The United Nations, with the support of the United States, attempted to curtail the fighting in the Balkans by imposing an arms embargo against all states of the former Yugoslavia. The embargo not only failed to stop the deterioration of the situation in the former Yugoslavia, but in many respects contributed to further suffering in the region. Instead of reducing the flow of weapons to the region, the embargo increased the terrible disparity in military power among the factions and forced the Bosnian Muslims to seek weapons wherever they were available.⁴⁹ Unfortunately for the Bosnian Muslims, the embargo did not prevent arms from reaching the Croats and the Serbs, further exacerbating the weak military position of the Bosnian Muslims.

In an article dated August 2, 1994, the *Washington Times* carried a chart outlining the sales and shipments of arms to the warring parties for the period 1992-94 during which the arms embargo was still very much in effect.⁵⁰ Croatia received the highest dollar amount of arms among the three countries -- receiving over \$650 million in weapons in contrast to the arms embargo. Half of these weapons were of German origin.⁵¹ Serbia, which had retained the bulk

⁴⁸ Remarks of Rep. Benjamin Gilman before the House International Relations Committee, Apr. 23, 1996, at 10 (citing testimony of Secretary of Defense Perry before the House International Relations Committee, Nov. 30, 1995).

⁴⁹ Gordon at A10.

⁵⁰ Paul Barrett, *Iran Uses Russian Planes to Supply Bosnian Muslims, Croatian Troops*, *The Washington Times*, Aug. 2, 1994, at A14 (hereinafter "Arms Chart").

⁵¹ *Id.* According to the chart, \$320 million in German-origin arms were sold to Croatia. This chart does not indicate whether these figures also include the percentage of weapons Croatia demanded from shipments headed for the Bosnians which transpired its borders. These cuts were as high as thirty percent before the cessation of hostilities in the region.

of the former Yugoslav military at the outset of the war, received approximately \$476 million worth of additional weapons, nearly three quarters of which came from the former Soviet Union.

Bosnia, the neediest country of the three in terms of arms, received just \$161 million in arms from third countries, \$20 million of which came from Iran.⁴²

Neither Croatia's decision to cooperate with the Iranians and other Islamic countries in

the reestablishment of the formal arms pipeline between Croatia and Bosnia, nor the formation of the Federation balanced the scales while the embargo was in place. Bosnia began receiving deliveries of arms from the Islamic countries on a more regular basis, but Serbia and Croatia continued to maintain a vast superiority in heavy and sophisticated weaponry.

In late 1994, the Croatian Defense Ministry commented that the current air deliveries of light weapons into the region were not enough⁴³ to aid the Bosnian cause. Of course, arguing for more weapons deliveries to Bosnia was in the interests of Croatia since it received one third of all shipments that went to Bosnia through its territory.⁴⁴ At the same time the Bosnian Foreign Minister lamented that it was extremely difficult to get financing and support from many of the

⁴² *Id.*

⁴³ Memorandum to the File by Peter Galbraith, Sept. 5, 1994, (Confidential)

⁴⁴ INR Report, Nov. 18, 1993 (describing the Croatian arrangement before Muslim-Croat hostilities to take thirty percent of arms shipments to Bosnia).

Islamic nations that publicly supported lifting the embargo to aid Bosnia's survival in the face of Serb aggression.⁴⁵

Serbia also prospered under the arms embargo. By June 1994, the United States had noted a sharp erosion in the effectiveness of the arms embargo against all countries.⁴⁶ Leaks in the arms embargo were most apparent in Serbia where the entire economy was growing in spite of the economic sanctions against it.⁴⁷ The United States sought to impose tighter United Nations Security Council sanctions against Serbia, but met with strong resistance from the allies.⁴⁸ Serbia's ability to project its military threat throughout the former Yugoslavia, was demonstrated in November 1994 when Serbia threatened to bomb Pleso airport, Lucsko airfield, and Zmaj if Croatia continued to supply Bosnian Muslims in Bihać.⁴⁹ Thus, even with assistance, the Bosnian Muslims found themselves at a disadvantage.

The Bosnian difficulty in receiving arms continued throughout 1995, until the signing of the Dayton Accords. Unlike Bosnian Croat and Bosnian Serb forces whose patrons in Croatia and Serbia provided them with material and financial support, the Bosnian Muslims had to look outside their immediate neighborhood for support. At no point during the conflict were the

⁴⁵ Memorandum to the File by Peter Galbraith, Dec. 16, 1994, (S)

⁴⁶ Memorandum to the Secretary of State, June 2, 1994, (S)

⁴⁷ *Id.*

⁴⁸ See Department of State Cable, USUNJ 1991, Aug. 12, 1994, at 1, (S)

⁴⁹ Department of State Memorandum by Peter Galbraith, Nov. 17, 1994, at 1. The Serb threat did not materialize as the Croatians explained that they were not aiding the Bihać Muslims at the time although they had promised assistance in the previous month. *Id.*

Bosnians able to counter the weapons possessed by the Serbs and Croats.¹⁴¹ In addition, Croatia continued to take a thirty percent cut of the weapons it allowed to transit its territory en route to Bosnia, negotiated deals with Iran for the delivery of missiles able to hit Belgrade, and amassed a sizeable stockpile of material.¹⁴²

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¹⁴¹ Memorandum to the File by Peter Galbraith, June 20, 1995.

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The Clinton Administration saw the Federation Agreement as a critical factor in reducing the disparity in weaponry among the combatants. The most important consequence of the Federation Agreement was that it allowed the Muslims and Croats to concentrate on the war with the Serbs. The fact that Croatia reopened the arms pipeline for the Bosnians was an important secondary consequence.

1995: The Road to Dayton.

In December 1994, former United States President Jimmy Carter concluded a mission to Bosnia in which he negotiated a four-month cease-fire. The warring parties agreed to several military and humanitarian demands, including a "cease fire, the ending of Serb restrictions on humanitarian convoys, the reopening of the Sarajevo airport to aid flights, the protection of human rights, the opening of the Bosnian Serb territory to United Nations human rights investigators and the exchange of all detainees and prisoners of war."¹⁴³ Although the fighting quieted somewhat, this cease-fire, like all prior ones, began to fray as the April deadline approached. Negotiations for its extension were fruitless.

Once again, the Serb forces renewed their heavy weapons attacks against Sarajevo and

¹⁴³ Steven Woodard, *Bosnia: Herzegovina and Former Yugoslavia: Chronology of Events, June 1, 1994-July 16, 1995*, CRS Report 95-423F, July 18, 1995, at 8 (hereinafter "CRS Chronology 1994-1995").

other United Nations "safe areas," took United Nations peacekeepers hostage and used them as human shields and potential NATO air strike targets.¹¹⁰ By July, the Serbs overran the safe haven of Srebrenica after NATO air strikes failed to stop their advance. Subsequent reports of the siege of Srebrenica suggest that thousands of Muslim civilians were massacred and buried in mass graves at this site.

The Western allies, fearing that Gorazde would be the next safe area to fall, promised "decisive and substantial" air strikes to protect the city.¹¹¹ A sustained air strike campaign by NATO against Serb targets and military equipment lasted throughout the summer and included thousands of sorties. While the strikes continued, United States negotiators renewed their efforts to discuss a cease-fire with the Serb forces. NATO's show of military superiority, together with Croatia's successful attacks against Serb-held areas of Croatia, created an incentive for the Serb forces to sit down at the negotiating table.¹¹² When the Serbs began to comply with United Nations demands and affirmed their willingness to sign a cease-fire, international negotiations sponsored by the United States, the European Union and Russia began in Dayton, Ohio.

Three weeks later, a peace agreement was initiated to create a central government and two semi-autonomous regions with Bosnian territory divided fifty-one percent to the Federation and forty-nine percent to the Bosnian Serbs. The agreement also contained provisions on military arrangements, free elections, human rights and refugee issues. After the agreement was

¹¹⁰ *Id.* at 12.

¹¹¹ Chronology: 1990-1995, Associated Press, *The New York Times* on the Web, (<http://www.nytimes.com/special/bosnia/context/spectro.html>) at 5.

¹¹² CRS Chronology 1994-1995 at 6.

signed, the United Nations Security Council passed Resolution 1021, to terminate the arms embargo on all former Yugoslav parties.¹¹³ The negotiations for a permanent peace were formally signed in Paris on December 14, 1995, at a ceremony in which President Clinton commented, "I applaud these leaders for making the decision to turn from war to peace. Tomorrow they will begin the hard work of making that peace real."¹¹⁴ To help implement the Dayton Accords, NATO deployed 60,000 troops, including some 20,000 United States troops, to participate in an Implementation Force ("IFOR") to patrol the separation of the factions.¹¹⁵ In addition to contributing to the military force, the United States promised economic, humanitarian and military aid. The long term fate of the peace process is not yet clear but elections have been held and the cease-fire has been maintained. The civilian initiatives such as resettling refugees, providing a basis for economic growth and jobs, and creating a new government structure have begun. Unlike the situation on the ground in April 1994, there is an absence of war. In this the Dayton Accords are a success.

¹¹³ *Id.* at 11; see also United Nations Security Council Resolution 1021, point 1, adopted Nov. 22, 1995 (noting that the United Nations Security Council "decides that the embargo on deliveries of weapons and military equipment imposed by resolution 713 (1991) shall be terminated.")

¹¹⁴ Sharon Maeshie Garretberg, *Treaty Signed in Paris to Formally End Bosnian War*, *Boards Action Coalition*, Dec. 14, 1995 (<http://worldwid.com/~shw/paris.html>).

¹¹⁵ Julie Kim and Elizabeth Marino, *Bosnia and Former Yugoslavia: Chronology of Events, July 19, 1995-May 31, 1996*, CRS Report 96-556F, June 10, 1996, at 13.

THE UNITED STATES POLICY TOWARD BOSNIA

Upon assuming office in January 1993, the Clinton Administration was forced to deal with a deteriorating military situation in Bosnia. One option in addressing the problem was to lift the United Nations embargo that had been agreed to by the previous administration and to enable the Bosnian Muslims to defend themselves. This chapter describes the policy choices that were available to the Administration, how the views of the allies and the role of Iran were taken into consideration, and why the policy worked.

The Bush Administration's Approach.

After war broke out in Yugoslavia in 1991, the United Nations imposed an arms embargo on the entire country in an attempt to stem the fighting.¹ The embargo remained in effect on all parts of the former Yugoslavia despite the fact that the military capabilities of the newly independent Yugoslav republics varied widely. During the summer and fall of 1992, political pressure to lift the arms embargo increased in the United States and elsewhere in response to revelations of the Serb campaign of ethnic cleansing against the Bosnian Muslims and Croats. Proponents of lifting the embargo argued that the Bosnian Serbs' inheritance of the Yugoslav National Army's (the "JNA") equipment provided them with a significant military superiority that made possible ethnic cleansing and other human rights abuses. The Bush

¹ U.N. Security Resolution 713, Sept. 25, 1991.

Administration rejected these calls.²

During Labor Day weekend, 1992, an Iranian Boeing 747 landed at Zagreb ostensibly en route to Bosnia to deliver humanitarian supplies. Croatian officials inspected the plane and found weapons and Iranian military personnel. The Croats seized the war materiel and sent the Iranians home.³ Bush Administration officials noted that the seizure of the Iranian shipment represented the first tangible evidence of previously unconfirmed reports that Islamic countries had been providing military aid to the Bosnian Muslims.⁴ The Bush Administration officials also expressed concerns to the Croats about reports of Iranian flights.⁵ Ironically, at the same time that the Bush Administration was actively seeking to keep weapons from reaching the Bosnian Muslims, the United States Government confirmed a Newsday report that the Bosnian Serbs were operating detention camps where Muslim and Croat civilians were being held, tortured, and executed.⁶

President Clinton's Push to Lift the Embargo - 1993.

President Clinton advocated lifting the arms embargo against the Bosnian government

² U.S. Rules out Allowing Bosnia to Arm Itself, Reuters, Oct. 14, 1992.

³ Michael R. Gordon, Iran said to Send Arms to Bosnians, New York Times, Sept. 10, 1992, at A10.

⁴ Id.

⁵ Id.

⁶ U.S. Demands Red Cross Have Access to Detention Camps, Associated Press, Aug. 10, 1992 (noting that the Bush Administration was "losing everything in its power to open detention camps in Bosnia-Herzegovina.")

multilaterally and conducting air strikes against the Bosnian Serbs (the so-called "lift and strike option"). The lift and strike proposal represented a rejection of the Bush Administration effort to demilitarize the Balkans by maintaining an arms embargo against all the countries of former Yugoslavia. The Clinton Administration believed that the embargo worked to the decisive advantage of the Serbs who were primary perpetrators of ethnic cleansing and other war crimes.

During the spring and summer of 1993, the Clinton Administration sought to convince its NATO allies to support "lift and strike," but was unable to achieve consensus among the European allies, and shelved the proposal. When the allies said no to lift and strike, the Administration was not willing to compromise allied unity and initiate a unilateral policy which might have led to the commitment of thousands of U.S. troops to a combat situation in Bosnia. Therefore, the Clinton Administration continued to abide by the arms embargo and participate in NATO's Operation Sharp Guard interdiction effort in the Adriatic. However, the Administration no longer interfered with arms shipments by others through Croatian territory.⁷

The Administration pursued multilateralism only to the extent that it served U.S. interests. The United States adopted a creative approach in which it continued to abide by the United Nations Security Council resolutions, while simultaneously pursuing its own goal of allowing the Bosnians to arm themselves. According to Alexander Veshnow, former Deputy Assistant Secretary of State for European Affairs, the Administration distinguished between that which it was required to do under United Nations Security Resolution 713-- abide by the

⁷ Select Subcommittee Interview of Samuel Berger, Sept. 23, 1996 at 4 (hereinafter "Berger Subcommittee Int.") (explaining that the Nunn-Mitchell amendment codified what the United States was doing already, not enforcing the arms embargo).

embargo -- and that which it was merely "called upon" to do under United Nations Security Resolutions 740 and 787-- enforce the embargo. Veshnow testified that "the Administration, although it had to abide by the arms embargo itself, was clearly on record as opposing the arms embargo and, therefore, we felt that it was not necessary for us to aggressively enforce the arms embargo."⁸ Veshnow is one of several senior Administration policy makers who acknowledge the United States had evidence for many months prior to April 1994 that the embargo was being evaded. Veshnow stressed, however, that the United States "chose as a policy matter not to send a telegram to our Embassy [in Croatia] to protest and tell them to cut it out. We chose to take kind of a -- more of a hands-off neutral stance."⁹

Reginald Bartholomew, the former U.S. Special Envoy for former Yugoslavia, testified that his understanding of U.S. policy in 1993 was "the United States would, for its part, respect the basic provisions of the U.N. embargo in the sense of not itself transferring arms. The United States as a NATO member would, for its part, participate in the Sharp Guard operation, which was related, but there it stopped. . . ."¹⁰

The Croatian Question -- 1993

In April 1993, the Croatian Government first sought to ascertain the Clinton

⁸ Select Subcommittee Deposition of Alexander Veshnow, Aug. 8, 1996, at 20 (hereinafter "Veshnow Subcommittee Dep.>").

⁹ *Id.* at 21.

¹⁰ Select Subcommittee Deposition of Ambassador Reginald Bartholomew, Sept. 30, 1996, at 22 (hereinafter "Bartholomew Subcommittee Dep.>").

Administration's views on arms shipments to Bosnia. The Croatian inquiry may have been prompted by an expectation that the Clinton Administration would take a different approach than the Bush Administration crackdown of September 1992. The Croatian government had reasonable grounds to ask such a question since Charge d'affaires Ronald Neitzke (who would later become the Deputy Chief of Mission under Ambassador Galbraith) had told the Croats two months earlier that the United States strongly discouraged Croatia from serving as a transshipment center.¹¹

The Neitzke statement also conflicted with the fact that arms shipments were already reaching Bosnia without United States interference. In general terms, the Neitzke advice reflected the Bush Administration action in September 1992, and not the Clinton Administration's view.¹²

Defense Minister Susak raised the question about the United States view during a visit to Croatia in April 1993 by former Special Envoy to the Former Yugoslavia Reginald Bartholomew. Specifically, the issue was raised after a breakfast meeting, in which discussion had focused on relations between Croatia and Bosnia, and efforts to encourage the Croats to exercise some restraining influence on the Bosnian Croats to ease the growing tension with the Muslims.¹³

Defense Minister Susak asked Special Envoy Bartholomew how the United States would

¹¹ U.S. Department of State Cable No. 93 Zagreb 00499, February 14, 1993 (SECRET).

¹² Bartholomew Subcommittee Dep. at 13.

react to Croatia allowing weapons to transit Croatia en route to Bosnia. Bartholomew responded that the United States could not be put in a position of saying yes or no to the Croatian question. Bartholomew conveyed to Susak "that we didn't take a position on this, that we didn't approve, that we didn't disapprove, that we weren't... going to be part of this one way or the other, that he had to make his own decisions where this was concerned."¹⁴ The United States did not want to be put into a position of policing Croatia's border with Bosnia on the one hand or of approving weapons deals on the other. Either of those positions would have been contrary to U.S. policy.

Bartholomew stated:

"We weren't going to get into the business of these third-country arms transfers. We weren't going to be put in the business of approving some, disapproving others. We weren't going to become party to one way or the other where that was concerned, enforcing or saying yes to this, no to that, et. cetera. That was quite clearly something we didn't want to do."¹⁵

Bartholomew testified that Susak was ambiguous about whether arms already were flowing into Bosnia. He knew from other sources at the time, however, that the Croats were indeed letting at least some arms pass through, "even in the midst of having rough times with the Bosnians, because they were getting a cut of it."¹⁶ Bartholomew also knew that Iran was one of the suppliers.

The Majority notes that it accepts Mr. Neitzke's second-hand account of events (in which Mr. Neitzke stated that Ambassador Bartholomew told him the U.S. could not be in the position

¹³ Id. at 18-19.

¹⁴ Id. at 20.

¹⁵ Id. at 17.

of advising Croatia to transship arms to Bosnia) during this period over the first-hand account of Ambassador Bartholomew. In essence, Neizke's account is not much different than Bartholomew's own. It should be noted, that Ambassador Bartholomew reported his conversation with Minister Susak orally to Ron Neizke, who in turn, sent a cable on the conversation to Washington nearly two weeks later.¹⁶ Although the cable states that Ambassador Bartholomew had cleared it, this does not appear to be the case. Ambassador Bartholomew never saw any report or cable on the issue, and does not remember clearing any cable on the subject.¹⁷ Moreover, Mr. Neizke has testified that Ambassador Bartholomew reported the conversation to him in the car on the way to the airport for a departing flight which calls into question when and how Bartholomew would have been able to sign off on Neizke's second hand account of the conversation.

One year later, Croatian President Tudjman would pose a similar question to Ambassador Peter Galbraith. The question was similar, but the context was different. The difference in context helps explain why Ambassador Bartholomew could confidently offer his view to Minister Susak that the U.S. had no position and why Ambassador Galbraith felt compelled to seek expeditiously instructions on how to respond.

In April 1993, relations between the Bosnian Muslims and Croats were extremely tense, but full scale war had not yet broken out between the two groups. That would occur the following month. Ambassador Bartholomew knew that some arms were already flowing. He

¹⁶ U.S. Department of State cable No. Zagreb 1479, April 27, 1993 (C).

¹⁷ Bartholomew Subcommittee Dep. at 34.

also could surmise that the effects of his response would be negligible. In fact, due to "the outbreak of the war between the Bosnian Muslims and the Bosnian Croats, arms did not flow to Bosnia in great quantities after Special Envoy Bartholomew's exchange with Defense Minister Susak."¹⁸ In contrast, in April 1994, the Bosnian Muslims and Croats had weeks earlier, agreed to a fragile peace. Arms flows had been kept to a minimum during the previous year, and Croatia was seeking the U.S. view in the wake of the conclusion of the Federation Agreement. The Croatian question was, therefore, more significant than it had been the previous year.

Moreover, whereas Ambassador Bartholomew was approached over breakfast by a Croatian Minister, Ambassadors Galbraith and Redman were asked by the President of the country for the official U.S. view. As Ambassador Bartholomew testified: "... this was a breakfast conversation... this wasn't being put to me in terms of a formal demarche the way I understand later on the President of the Republic of Croatia did, in a formal setting to one or at least two Ambassadors in specifically asking for the United States Government position, et cetera. This was a breakfast conversation in which my reaction was being sought, and I gave a reaction which was totally in line with the general outlook of the administration at that time."¹⁹

The U.S. answer on both occasions turned out to be identical. U.S. policy was the same in April 1993 as it was in April 1994. Ambassador Bartholomew equates the two replies: "No instructions, no position."²⁰ He also noted that when Ambassador Redman told President

¹⁸ Select Subcommittee Deposition of Ambassador Peter Galbraith, Aug. 19, 1996, at 13 (hereinafter "Galbraith Subcommittee Dep.>").

¹⁹ Bartholomew Subcommittee Dep. at 24.

²⁰ *Id.* at 41.

Tudjman that the United States did not want to be in a position of saying no to the Croats.²¹ "He said what I said. . . I mean, in the sense of not wanting to take a position on the thing."²²

From the beginning of the Clinton Administration, the United States participated in Operation Sharp Guard (the NATO operation in the Adriatic primarily aimed at enforcing economic sanctions against Serbia) but did not undertake efforts to enforce the arms embargo against Bosnia. Senior officials at the CIA were aware that the Administration was not vigorous in enforcing the arms embargo against the Bosnian Muslims. Former Deputy Director for Intelligence, Douglas MacEachin, testified that "U.S. policy, in terms of constraining arms shipments into Bosnia from the Coalition side had never been pursued with the same vigor that they had been on the Serbian side."²³

The Bartholomew advice delivered one year prior to the meeting among Ambassador Galbraith, Special Envoy Redman and President Tudjman represented the first indication by a senior U.S. Government official that enforcement of the embargo would not be pursued vigorously.

A Call for Action in Bosnia

In February 1994, a mortar attack on Sarajevo's marketplace led to renewed United States diplomatic activity on Bosnia. Already deeply engaged in a parallel but separate effort to end the

²¹ Redman Subcommittee Dep. at 51.

²² Bartholomew Subcommittee Dep. at 41.

²³ Select Subcommittee Deposition of Doug MacEachin, Sept. 6, 1996, at 58 (hereinafter "MacEachin Subcommittee Dep.").

vicious fighting between Bosnian Muslims and Croats, the Clinton Administration spearheaded the successful effort to issue a NATO ultimatum to enforce a weapons exclusion zone around Sarajevo. At the same time, President Clinton reiterated United States interests in Bosnia. The policy of the United States toward Bosnia was intended to help prevent the Bosnian conflict from becoming a broader European conflict, maintain NATO as a credible force for peace in the post-Cold War era, help stem the de-stabilizing flows of refugees in the region, and stop the strangulation of Sarajevo and the slaughter of innocents.²⁴

Unfortunately, the United States had few good choices in pursuing its objective. In early 1994, the first option was to increase U.S. military involvement in the conflict. The second option was to lift the arms embargo multilaterally. The third option was to lift the arms embargo unilaterally. The first option had the obvious and significant downside of committing U.S. troops to a combat situation and was rejected on the grounds that it was unlikely to command or sustain public support. The second option had to be abandoned when the Administration was unable to garner the support of the allies for such an approach. The third and only remaining option, preferred by a growing number in Congress, was opposed by the Administration for fear that it would lead to the withdrawal of UNPROFOR, the abandonment of the U.N. humanitarian mission in Bosnia, the flouting of U.N. embargoes by other countries, and the Americanization of the conflict.²⁵

²⁴ President Clinton's weekly radio address, Feb. 19, 1994, as reported by Federal News Service transcript.

²⁵ Berger Subcommittee Int. At 4.

Securing the Federation Agreement.

In March 1994, a positive new development re-energized the Clinton Administration's efforts. Bosnia's Muslims and Croats signed a Federation charter in Washington, and ended a year of bloodshed between the two groups. The Federation Agreement had political, military and humanitarian significance. In addition to ending the fighting, the Agreement freed Bosnian and Croat forces to direct their military and political attention towards the Bosnian Serbs, opened the way for increased aid supplies to pass through Croatian territory to Bosnia, and reduced the level of human rights violations.

According to the former Special Envoy to the Former Yugoslavia, Charles Redman, who was the principal negotiator of the Federation Agreement, the primary benefit of the Federation was to stop the war which would save lives, strengthen the hand of the Bosnian government through the strategic alliance, and keep the Croats on the right side. The real strategic objective, however, according to Redman "was to form the basis that we could build on for an overall agreement in Bosnia." Once the Federation was formed, Redman testified that he "immediately went back to work to try to contact then the Bosnian-Serb leadership to see if we could then build on that into an overall Bosnian settlement."²⁶

The war between the Muslims and Croats had produced some of the most brutal fighting of the Balkan war, and had cost thousands of lives. The Federation Agreement represented the first step to an overall peace between the combatants. However, it was a "fragile animal"²⁷ that

²⁶ Redman Subcommittee Dep. at 27.

²⁷ *Id.* at 35.

could collapse unless nurtured carefully. Keeping the Federation together had to be added to the United States policy objectives stated by President Clinton the previous month.²⁸ Special Envoy Charles Redman testified that distrust existed between the Croats and Muslims even as they became closer because we could not "just . . . put them together in a federation and suddenly they forgot the past."²⁹

Pressure to Lift the Embargo.

In early 1994, the Administration was faced with additional pressure to "do something" in response to the Serbs' continued siege of Sarajevo and attacks on civilians in the U.N. declared safe haven of Gorazde. Members of Congress, the press, and the American public, largely sympathetic to the plight of the Muslims, began to step up calls for lifting the arms embargo.³⁰ Throughout the spring and summer of 1994, Congress voted several times on measures that demonstrated full support for the termination of the embargo. Although a consensus formed on the need to lift the embargo, the question of whether it should be done unilaterally or multilaterally remained.³¹

²⁸ *Id.* at 37.

²⁹ *Id.* at 36.

³⁰ The Majority asserts that Ambassador Galbraith made it clear that he was sympathetic to the plight of the Bosnian Muslims and that he was convinced that the Bosnian Muslims were desperately in need of weaponry. Majority Report, at 77-78. His views were, in fact, consistent with those of a majority of those in Congress.

³¹ See Chapter One, Section Three for a more detailed discussion of Congressional action.

The Administration rejected calls to go it alone in Bosnia. At a news conference on April 20, 1994, President Clinton described the situation in Sarajevo, Gorazde and elsewhere in Bosnia as "increasingly grim" and a "setback for the momentum achieved in recent months," but he placed a significant premium on "working with our allies, the Russians, and others" to "help the warring parties in Bosnia to reach a negotiated settlement."³¹ U.S. leadership and allied solidarity had yielded some small, but significant steps in Bosnia. Secretary of State Christopher testified that the effectiveness of a NATO ultimatum to place all heavy weapons threatening Sarajevo under United Nations control or to remove the heavy weapons to a twenty kilometer exclusion zone around the city was due in large measure to the firmness and solidarity of the NATO alliance which was led in this instance by the United States.³² The allies also shared the U.S. goal of creating and maintaining a federation between the Bosnian Muslims and Croats as an instrument to maintain the peace between Bosnian Muslims and Croats and provide the basis for a quicker settlement to stop the war.³³

The Administration was committed to actions and policies that reduced to a minimum the potential for a withdrawal from Bosnia by UNPROFOR. For purposes of the Select Subcommittee investigation, the debate over unilaterally lifting the embargo need not be rehearsed. The depth of opposition to a unilateral lift within the Administration is important to

³¹ The President's News Conference, Public papers of the President, Apr. 20, 1994.

³² Hearing on Foreign Policy Overview and Budgetary Resources, 103d Congress, 2d Sess. (1994) (Statement of Warren Christopher, U.S. Secretary of State to the Senate Committee on Foreign Relations, Feb. 23, 1994, at 6).

³³ Redman Subcommittee Dep. at 80.

note, however, because it influenced how the Administration would respond to the Croatian question. The Administration believed a withdrawal would expose the Bosnian Muslim military and civilian population to certain death and destruction and create a humanitarian and military vacuum which U.S. troops might have been forced to fill. The Clinton Administration also believed that an UNPROFOR withdrawal would increase the likelihood that U.S. ground forces would be required to live up to the longstanding U.S. commitment entered into by the Bush Administration to help the NATO allies extract their troops if and when such an extraction became necessary.³⁴

On April 20, President Clinton outlined his concerns about a unilateral lifting of the embargo:

First, I would say that if we ignore a United Nations embargo because we think it has no moral basis or even any legal validity but everyone else feels contrary, then what is to stop our United Nations allies from ignoring embargoes that we like, such as the embargo against Saddam Hussein? . . . Secondly, what are the practical problems with raising the arms embargo? Do the Croats, who now have this agreement with the Muslims, support it? Will it be facilitated? How long would it take to get there? Would that increase Serb aggression in the short run while we're waiting for the arms to be delivered? There are a lot of practical problems with it. Do I favor lifting it? I do. Do I believe the allies with whom we are working now would vote to support it? I don't.³⁵

In June, Secretary Christopher outlined what the Administration, in cooperation with the NATO allies, had accomplished in Bosnia. An agreement had been negotiated between the Bosnian Muslims and the Croats to end their year-long war, the shelling of Sarajevo had ceased, and the exclusion zones around Sarajevo and Gorazde were being enforced. The continuing violence, he said, made "it vital that the parties come to a political settlement." The Secretary

³⁴ Berger Subcommittee Int. at 4.

³⁵ President's News Conference, Apr. 20, 1994.

emphasized the importance of working with Russia and other European partners in the Contact Group on a proposal to form the basis for a negotiated settlement. Secretary Christopher testified that

"It would be a tragic mistake to undermine the settlement process which is now quite promising; to undermine it by unilaterally lifting the arms embargo at this moment. That would break the cohesion of the NATO alliance." Secretary Christopher, asserting U.S. leadership in ensuring that other embargoes were maintained, continued: "It could lead to a general collapse of U.N. sanctions as an effective instrument in international affairs, and it could undermine our efforts in such situations as Iraq and Libya."³⁷

Of course, many in Congress believed equally strongly that the United States had a moral obligation to help the Bosnians, and that conditioning U.S. policy on a consensus among our allies made neither good political nor good military sense. Many were calling for a lifting of the arms embargo and, for some of these Members, the immediate objective was using United States air power to force a Bosnian Serb withdrawal from the threatened Bosnian population and areas and forcing the Serbs to pay a price for its aggression.

The Croatian Question - 1994

In the months prior to April 1994, contact between the Iranians, Bosnians, and Croats increased including, in particular, discussion of trade relations and arms deals.³⁸ The discussions intensified with the signing of the Federation Agreement. A memo produced by the State Department Intelligence and Research Bureau in November 1993, foreshadowed what was to occur a few short months later.

³⁷ (Senate Foreign Relations Committee, June 30, 1994, transcript pp. 11-12)

³⁸ See Chapter Three, Section One for discussion of Iranian presence in Bosnia.

[REDACTED] By the spring of 1994, those conditions appeared to be in place.

The question posed by President Tudjman to Ambassador Peter Galbraith shortly after the signing of the Federation Agreement echoed almost exactly the question put to Special Envoy Bartholomew one year earlier, "Would the U.S. object if Croatia were to allow weapons to transit Croatia en route to Bosnia?" The question came amidst ongoing discussions within the Administration on how to respond to the Bosnian crisis, and more specifically, how to address the arms embargo issue. The Administration response was not in lieu of a decision on lift, and indeed, the lift debate continued throughout the summer in the Congress and in the press.

Administration policy makers outlined three options in answering President Tudjman. The first option was to say that the United States objected. The second option was to say that the United States did not object. The third was to say that the United States had no instructions.³⁹ Deputy Secretary Talbot testified that the "no instructions" option was a diplomatic way of saying that we neither approved of nor objected to what the Croats were proposing.⁴⁰ Deputy Assistant Secretary Vashbow testified that "no instructions" was a "way to neither endorse nor

³⁹ Select Subcommittee Deposition of Strobe Talbot Sept. 5, 1996, at 42-43 (Deneithalter "Talbot Subcommittee, Dep. 7), Berger Subcommittee Int. at 4.

⁴⁰ SSCI Deposition of Deputy Secretary Strobe Talbot, Apr. 23, 1996, at 21.

approve of something..."

The downside to the "no instructions" response was the likelihood that Iran would be a probable supplier. Deputy Secretary Talbot testified that:

[A]fter careful consideration we decided that the consequences of any other answer would be worse. If we had said yes to the Croats, that is, if we had explicitly, affirmatively approved the transshipment it would have put us in the position of actively and unilaterally supporting a violation of the arms embargo. The public disclosure of such a posture would have caused severe strains with our allies who had troops on the ground in Bosnia as part of UNPROFOR and who naturally were giving priority to the safety of their own people on the ground.⁴¹

If the allies had discovered that the United States had endorsed the shipments, a withdrawal of UNPROFOR might have been triggered. Withdrawal could have required a substantial U.S. troop deployment as part of a very dangerous and costly NATO extraction effort.⁴²

On the other hand, saying no to the Croatian request also would have had negative consequences. If, as a result of explicit U.S. disapproval of the transshipments, the Croatian government had shut down the arms pipeline, the Federation of Muslims and Croats would have been undermined and perhaps destroyed. In addition, the objection might very well have denied the Muslims the arms essential to their survival.⁴³

The "no instructions" response avoided these serious problems and embodied existing policy. According to Deputy Secretary Talbot:

⁴¹ Verrilow Subcommittee Dep., at 30.

⁴² Talbot SSCTI Dep., at 20-21; Berger at Subcommittee Int., at 4.

⁴³ Id., at 21.

⁴⁴ Talbot, Select Subcommittee Dep., at 43.

It is our honest judgment that the exchange that we had with the Croats in April 1994 did not constitute a change in policy. It was a specific confidential diplomatic exchange that was consistent with and supportive of a policy that had been in place for some time. The back and forth with the Croats that we are discussing here was totally consistent with and supportive of that policy.⁴⁵

The "no instructions" response neither signaled a change in the United States reaction towards arms shipments through Croatia, nor signaled a change in the United States' compliance with the embargo. In fact, the "no instructions" response was virtually identical to the response by Special Envoy Bartholomew to Defense Minister Susak one year earlier.

The Administration believed that the Croats would maintain tight control on the type of weapons which were being shipped to Bosnia, and that they would not allow weapons which it considered a threat to Croatia to enter Bosnia.⁴⁶ Ambassador Galbraith testified that the United States had no control over the arms shipments to Bosnia, although the United States was interested in collecting as much information as possible:

(W)hat went in was overwhelmingly, perhaps exclusively small arms and weapons that were intended to enable the Bosnian Army to defend itself and the Bosnians to survive. And the Croats had no interest in the Bosnians acquiring any significant offensive or any significant heavy weapon, slash high tech weapons capability.⁴⁷

As the [redacted] testified, the decision to allow transshipments was a "double edged sword" for the Croats, and "the Croats were worried about what sorts of weapons the Muslim forces would get and specifically they didn't want heavy weapons to get to the Muslims because

⁴⁵ Talbot SSCTI Dep., at 36-37.

⁴⁶ Verrilow Subcommittee Dep., at 114-15.

⁴⁷ Galbraith Subcommittee Dep., at 76-77.

they feared they would ultimately be used against the Croats. In fact, the Bosnian Croats advantage in and control of weapons had been a factor in the outbreak of war between the Bosnian Croats and Muslims the previous year. Croatian forces in Bosnia could rely on their patrons in Zagreb for weapons supplies, whereas the Bosnian Muslims were at Zagreb's mercy. U.S. officials were concerned that denying the Bosnians weapons might lead to a break-down of the Federation and a resumption of war.⁴⁸

In instructing Ambassador Galbraith to tell the Croatian Government that he had "no instructions" with regard to Croatia allowing arms to transit Croatia en route to Bosnia, the Clinton Administration walked a fine line between being sensitive to the allies' concerns on the one hand, and not blocking the means of Bosnian survival on the other.

The Downside - Iran.

In considering how to respond to President Tudjman's question, the Administration was aware that Iran had been supplying arms and, absent a clear signal to oppose further transshipment of weapons, would continue to supply arms to the Bosnian Muslims. Administration officials acknowledge combination of the "Iranian connection" was the most significant downside to the no instructions response.⁴⁹

⁴⁸ Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 147-48 (hereinafter "Subcommittee Dep. 7").

⁴⁹ Galbraith Subcommittee Dep. at 27.

⁵¹ Talbot Select Subcommittee Dep. at 34. For a discussion of the extent to which Iran was involved in the region between 1991-1996, see Chapter Three, Section One.

As discussed previously, the Iranian arms flow was not triggered by the Administration's "no instructions" response.

Some believe, incorrectly, that our decision opened the way to Iranian influence in Bosnia. By April of 1994, there were hundreds of Iranian mujahideen and Revolutionary Guards in Bosnia. So the Croats' question to us in April of 94 was not an invitation to open a door that had been closed to the Iranians. That door was already open. Had we tried to slam it shut, we might very well have also shut down the relationship that was developing between Croatia and the Federation. And that result could have, I believe almost certainly would have, kept us from ever getting to Dayton.⁵²

Iran was, moreover, just one of several countries poised to increase the supply and financing of weapons to Bosnia in the wake of the Federation Agreement. President Tudjman's question was a generic one. "The question from Tudjman was not can we transship Iranian arms, it was can we transship arms. And we were willing of course to the fact that a significant portion of those arms were Iranian, but it was not Iran only."⁵³

According to Assistant Secretary Richard Holbrooke, the Administration was faced with a set of "lousy choices."⁵⁴

As we negotiated we often thought of historical analogies. The one that came to mind here was Winston Churchill's famous comments about why Britain made common cause with Stalin against Hitler. I don't want to put this up into that same level of history. But it was a legitimate decision for Churchill and he knew full well the consequences. Here at a much smaller scale, this was done... and as soon as the cease fire was in place, as

⁵² Talbot SSCT Dep. at 22.

⁵³ Emphasis added.

⁵⁴ Talbot Subcommittee Dep. at 48.

⁵⁵ SSCT Hearing, Statement of Assistant Secretary Richard Holbrooke, May 21, 1996, at 48 (hereinafter "Holbrooke SSCT Dep. 7").

soon as we got to Dayton, we dealt with it. And it has been dealt with."

The Holbrooke reference to dealing with it concerns the Dayton requirement that foreign forces leave Bosnia as a condition precedent to United States "equip and train" efforts. In an equally apt analogy, Holbrooke testified: "When the patient is dying, you first give him oxygen and then worry about the source of the oxygen later. And those Iranian shipments . . . kept the patient alive."⁵⁷

The Allies.

In the spring of 1994, there were more than 14,300 UNPROFOR troops on the ground in Bosnia and another 14,500 in Croatia. Of these, more than 15,000 were from NATO countries, and the bulk of those were from Britain and France. While the Clinton Administration favored lifting the arms embargo, the allies were adamantly opposed to terminating the embargo. There was a particular concern among the allies that the Bosnian Serbs might target NATO troops if weapons from a NATO country were seen to be reaching the Bosnian Muslims. According to U.S. Ambassador to NATO Robert Hunter, the allies "feared[] that weapons would reach forces and they might be used against their troops, or in any event, lead to an escalation and make anyone associated with NATO more vulnerable."⁵⁸ In public testimony before the Senate Armed Services Committee in June 1994, representatives of the defense ministries of NATO countries

⁵⁶ *Id.* at 50.

⁵⁷ Holbrooke Subcommittee Dep. at 50.

⁵⁸ Select Subcommittee Deposition of Ambassador Robert Hunter, at 40 (hereinafter "Hunter Subcommittee Dep.").

with troops on the ground (Denmark, France, Spain, and the United Kingdom) opposed the lifting of the arms embargo. The witnesses testified that the lifting of the embargo would force UNPROFOR to withdraw and would inevitably lead to increased U.S. involvement in the conflict.⁵⁹

The Administration took into account allied concerns when deciding how to respond to President Tudjman's question. Sensitive to allied reaction, the Administration sought to keep the exchange between President Tudjman and Ambassadors Redman and Galbraith quiet. According to Strode Talbot, "we were worried as hell about leaks. . . ."

Special Envoy Redman testified that despite the fact that the "no instructions" response confirmed what was already U.S. policy, discretion about the exchange that he and Ambassador Galbraith had with President Tudjman was critical:

(I) had implications for our dealings with our allies, because they knew we were trying to lift the arms embargo. They knew that arms were flowing to the Bosnian government before this decision as well as after this decision. But it was still important. And it was obviously important to them, because it actually played out this way, whereas they had said that UNPROFOR would be out of the country if the United States unilaterally lifted the arms embargo. When all of these reports which started to flow publicly shortly thereafter, and we shared that information with the allies as well, they didn't make those threats and they didn't pull out of UNPROFOR. So it was to me a very important distinction that we had not, ourselves, said we are going to do it and do it. It [arms flows] did happen to be happening. So it was important, I think that it be handled in a discreet way.⁶⁰

⁵⁹ "Impact of a Unilateral United States Lifting of the Arms Embargo on the Government of Bosnia-Herzegovina," Hearing before the Committee on Armed Services, United States Senate, One Hundred Third Congress, Second session, June 23, 1994, at 1-21.

⁶⁰ Talbot Subcommittee Dep. at 46.

⁶¹ Redman Subcommittee Dep. at 58-59.

While the allies might not have known about the particular exchange that occurred in April 1994, they did become aware of increased arms flows to the Bosnian Muslims. Moreover, the allies, like the United States, did not object to the weapons transfers. Ambassador Galbraith recalled discussing the issue of arms transfers with his European colleagues -- most likely the Russian and German ambassadors-- and perhaps the British and French ambassadors:

(T)here had been press stories suggesting that arms were... flowing through Croatia to the Bosnians and noting that the United States was looking the other way, winking, nodding, whatever the terminology. And I remember this coming up at some occasion which I was with the other ambassadors and... I simply took note of this and I said have any of you guys objected? And what I remember well is that not one of them had ever objected. Not one of their governments had issued a demarche to the Croatian Government for its role in facilitating the transit of weapons to the Bosnian Government. And I made note that, as I recall it, that their position was identical to ours.⁵²

The allies were prepared to live with the consequences of the "no instructions" response: had they been informed of the exchange, however, the allies might have been obliged to protest.

Additional British Concerns

The British Government, however, did share their concerns about the increase in arms shipments from Middle Eastern countries to Bosnia with the United States government. A primary British concern appeared to be that heavy weapons, which could pose an increased threat to allied troops, not reach Bosnia. The concerns never rose beyond the level of diplomatic discussions, and the British did not raise the issue publicly, suggesting that they did not judge the Middle Eastern arms flows to be of a level significant enough to threaten their troops. Nor did the fact that the United States refrained from objecting to the shipments stand in the way of the

⁵² Galbraith Subcommittee Depn, at 116.

allied diplomatic efforts which culminated in the Dayton accords.

Reaction to Unilateral Lift and to Nunn-Mitchell

The allies' reaction to proposals for unilateral lift and to the adoption of the Nunn-Mitchell amendment stand in sharp contrast to their reaction to the clandestine flow of weapons from Middle Eastern countries through Croatia to Bosnia. A series of articles in the European press is highly critical of the U.S. decision to prohibit the use of Department of Defense funds for enforcement of the arms embargo. For example, "Ain Juppe, French foreign minister, said the U.S. withdrawal from enforcing the arms embargo against Bosnia favored those who wanted war against those who wanted peace. Mr. Francois Leonard, the French defense minister, threatened to withdraw French troops from Bosnia in the event of 'one more step' in the wrong direction."⁵³ The French Presidential spokesman Jean Musitelli went further: "We regret that our American allies have acted unilaterally, and without giving much concern for their allies on the ground."⁵⁴ British Foreign Secretary Douglas Hurd described the expected United States unilateral move as "a worrying development" while Danish Foreign Minister Niels Helweg Petersen described a lifting of the embargo as a "bad signal."⁵⁵

The implementation of the Nunn-Mitchell amendment also fueled speculation among the

⁵³ Lionel Barber and Bruce Clark, French attack US policy on Bosnia, Row highlights drafting apart of US and its European allies, The Financial Times, Nov. 17, 1994, at 2.

⁵⁴ France, Britain Slams US over Embargo Pullout, Agence France Presse, Nov. 18, 1994.

⁵⁵ European allies irritated by U.S. Bosnia Decision, Deutsche Presse-Agentur, Nov. 11, 1994.

allies that the U.S. was actively involved in a covert operation to help the Bosnians. "America's decision to stop enforcing the arms embargo against the Bosnian Muslims has split NATO and opened a Pandora's box of accusations about the U.S. secret agenda in the Balkans" and

[R]ecent reports in Europe that the United States is covertly aiding the Bosnian Muslims are strongly denied by American officials and appear to be inaccurate in many details. The frequency of these stories, based on claims by unidentified European officials, and United Nations officers, increased last week after the Clinton Administration decided to stop enforcing a regional arms embargo against Bosnia's Muslim-led government.⁴⁴

U.S. Ambassador to NATO Robert Hunter said that "There was a concern about the time of the Nunn-Mitchell that the United States was going to leave allies vulnerable to the movement of arms."⁴⁵ A primary concern of the allies appears to be that the prominent U.S. role in unilateral lift and/or Nunn-Mitchell threatened the cohesion of the alliance. The gist of those concerns was that "this would bring their troops under greater threat. Some of them, like the French, also argued that this showed the United States was violating the U.N. provisions and also was not pulling its weight as an ally."⁴⁶ In fact, the United States was not involved directly in weapons flows from the Middle East. Nor did the arms flows include heavy weapons of the kind that would constitute a grave threat to UNPROFOR troops on the ground.

⁴⁴ Ed Vallentyne, *America's Secret Bosnia Agenda*, *The Observer*, Nov. 20, 1994, at 16.

⁴⁵ Secretary Christopher sent Undersecretary Tarnoff to Paris to reassure French officials that the United States was not supplying arms to the Bosnians, and to stem rumors of a U.S. covert operation. Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 27-28. (Hereinafter "Tarnoff Subcommittee Dep.")

⁴⁶ John Pomfret, *U.S. Denies European Claims It is Aiding Bosnian Muslims*, *International Herald Tribune*, Nov. 21, 1994.

⁴⁷ Hunter Subcommittee Dep. at 22.

⁴⁸ *Id.* at 43.

It is also important to note that to the allies the issue of concern was arms shipments to the Bosnians and not the role of the Iranians in the arms shipments. Fourteen of the fifteen NATO allies have diplomatic relations with Iran. According to Ambassador Hunter, not all of our European allies share the U.S. goal of isolating Iran: "Some do to some degree and some believe in what they call, I guess, constructive engagement. Constructive dialogue is the phrase used by the Germans."⁴⁹ This difference in allies' views of Iran may explain why there is no evidence of European allies expressing specific concern that Iran was the source of some of the arms reaching Bosnia.

Privately, NATO allies expressed some dismay at the break in allied cohesion upon the revelation by the U.S. press in April 1996 of the "no instructions" response. Although Ambassador Hunter can recall no specific complaints or comments from NATO allies upon the publication in April 1996 of press reports about the "no instructions" response, he testified that he did receive some comments.

If I recall correctly by the timing, the war was over, IFOR was deployed, IFOR was being successful, and it was a tenor of we are surprised you did this, you shouldn't have done it, but that is history, in the sense that it did not pose at that occasion of revelation, an ongoing threat to allied forces.⁵⁰

Unlike the reaction to Nunn-Mitchell, European governments' public reaction to the press accounts was muted. The British Parliament, for example, did not raise the issue with British Ministers during the regular questioning period. European press accounts of the

⁴⁹ *Id.* at 47.

⁵⁰ *Id.* at 50.

revelation of the Middle East pipeline in April 1996 largely recount the Los Angeles Times stories and describe plans in the United States Congress to investigate the allegations. They offer little commentary, and do not include responses by European leaders.⁷¹

Results of United States Policy:

The weapons flow during 1994 and 1995 helped the Bosnians survive until such time as the circumstances were ripe for a negotiated peace. Weapons delivered to the Bosnians throughout 1994 and 1995 were probably not the decisive factor in bringing the Serbs to the negotiating table; weapons delivered to the Croatsians may have been a more important factor. The Croatsians were in fact, receiving a cut of at least one third of the weapons being sent to Bosnia. They were also engaged in arms deals of their own. Croats had a stake in allowing weapons to transit its territory. The Croatsians' goal was to "keep (the Bosnians) in the war or at least operating effectively and to tie down the Serbs. It's largely a question of geography in that the Croats' main goal was to retake the occupied parts of Croatia and the Serb forces where were linked to the Serb forces in Bosnia. The degree to which the Croats could pin those forces in place would make it easier to launch their attack in occupied Croatia."⁷² In the summer of 1995, the Croatsians did retake those occupied territories, and together with Muslim forces, did put

⁷¹ Gingrich announces probe of Iranian arms shipments to Bosnia, *Agence France Presse*, Apr. 24, 1996; Iranian Arms to Bosnia, says "acceptable risk," *Demagog*, *Agence France Presse*, Apr. 25, 1996; Tom Rhodes, Clinton Approved Iran's Secret Arms Deals with Bosnia, *The Times*, Apr. 6, 1996; Rupert Cornwell and Mary Dejevsky, Clinton Hit by Rose over Iranian Arms, *The Independent*, Apr. 8, 1996, at 10.

⁷² [redacted] Subcommittee Dep. at 148.

pressure on Serb forces in Bosnia. These factors, combined with NATO air strikes against the Serbs, created incentives for the Serbs to cut a deal

According to Richard Holbrooke:

(The fundamental policy was absolutely correct, and without it, the Bosnian government would never have survived the winter of 1994-95, and we never would have gotten to Dayton. It is as simple as that. Sarajevo was in desperate shape at that point, having barely survived its war with the Croats, and being under continual assault from the Serbs. . . . Policy sometimes offers you only lousy choices. And we took the least lousy choice and I believe that the outcome more than justified the decision. . . . the record will show that the decision of April 94 resulted in the survival of the Bosnians through the winter of 94-95, and into the summer.

In going no further than "no instructions" and remaining discreet, the United States avoided an allied break on Bosnia. Maintaining consensus among the NATO allies with respect to NATO air strikes and international sanctions on Serbia was no easy matter. Had the United States gone further than "no instructions" and actually endorsed the shipping of weapons to Bosnia, the Clinton Administration believed the sometimes uneasy alliance over Bosnia might have collapsed.

The alliance did hold together over Bosnia, however. The United States, NATO, and other allied forces are serving side by side in IFOR and also are working together to implement the civilian aspects of the Dayton Accords. The IFOR arrangements are unprecedented and have been highly successful.⁷³

⁷³ Holbrooke SSCI Dep. at 26.

⁷⁴ *Id.* at 48-49.

⁷⁵ Hunter Subcommittee Dep. at 37.

⁷⁶ Hunter Subcommittee Dep. at 47.

Why the Policy Worked

(In the wake of our 1994 April answer to the Croatians -- and I would contend partly as a consequence of it -- the following happened. The Bosnian armed forces held on and began to counterattack. The Federation survived to become a cornerstone of the Dayton Agreement. We averted a crisis in the alliance. UNPROFOR remained in place, providing humanitarian supplies and helping the Bosnians through another brutal winter. We bought time for a combination of American diplomacy, NATO air power, and Croatian and Bosnian military victories to reach an historic peace agreement under United States leadership in Dayton. The United States is leading an international effort to arm Bosnia today. The Iranian presence there is down to a handful and increasingly marginalized. . . . a tough decision turned out to be the right decision."

* * * *

It was Dayton that gave us a chance to get the Iranians out of Bosnia. And the Dayton accords, we insisted on and achieved a commitment to the removal of all foreign forces from Bosnia. While we remain concerned by any remaining Iranian influence in Bosnia to this day, and continue to insist that foreign forces leave the country, very substantial progress has been made on this issue, largely through determined American leadership.⁵⁸

This much is clear. In 1994, Bosnia was embroiled in a bitter war that threatened to spill over to other parts of Europe. U.S. leadership helped bring an end to the fighting among the Bosnian Muslims, Croats, and Serbs, to the rape and torture, to the mass executions, and to the sniper attacks on civilians; it has helped create the conditions to build a new Bosnian state, and stopped the war from spreading. In early 1994, hundreds of Iranians were present in Bosnia and Croatia. Today, the Iranian fighters have been forced out.

The peace in Bosnia may be fragile, but it is simplistic and simply wrong to suggest, as does the Majority, that any leniency in the peace can be blamed on the "no instructions"

⁵⁸ Talbot Subcommittee Dep. at 23-24.

⁵⁹ Talbot SSCI Dep. at 22.

response."⁵⁹ If in the worst case scenario, the peace does not hold, it will be because of reasons far more complex than the U.S. delivery of a "no instructions" response to President Tudjman.

⁵⁹ Majority report at 194-95.

Chapter One
Section Three

THE ROLE OF CONGRESS

The Administration did not develop its Bosnian policy in a vacuum. The Congress was involved actively in a public debate throughout the period of the arms embargo. However, the debate probably was most intense during late 1993 and into the fall of 1994. Like the Clinton Administration, the Congress was increasingly concerned about the situation on the ground in Bosnia. Like the Administration,² the Congress had to choose between a series of difficult options. Like the Administration, the Congress wanted to end the arms embargo against Bosnia. But, unlike the Administration, many in Congress believed the United States should withdraw unilaterally from the arms embargo if the allies refused to end it multilaterally.

Congressional Action on the Arms Embargo.

As early as 1992, the United States Congress was on record in support of U.S. arms transfers to the Bosnian Government subsequent to the lifting of the arms embargo. In the summer of 1992, the Congress adopted the Biden amendment to the Fiscal Year ("FY") 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act,³ authorizing the President, pursuant to a lifting of the United Nations embargo, to transfer \$50 million in defense articles to the Bosnian government. In 1993, a similar amendment was adopted to the

² Fiscal Year 1993 Foreign Operations, Export Financing, and Related Programs Appropriations Act, P.L. 102-391.

FY1994 Foreign Operations appropriations bill.⁴ In 1993, however, calls to lift the international arms embargo against the Bosnian government -- or at least for the U.S. to provide arms to the Bosnians in spite of the embargo -- began to accelerate. In June, the House Foreign Affairs Committee adopted a Hyde amendment to the FY 1994 State Department authorization bill authorizing the President to provide \$200 million in military equipment to the Bosnian government, in spite of the arms embargo. The Senate Foreign Relations Committee adopted a similar amendment to the FY 1994 foreign aid authorization bill, after considering an amendment by Senator Lugar⁵ to require unilateral termination of the embargo. Several Congressional resolutions considered in 1993 called for the multilateral lifting of the embargo as one part of an overall policy to bring an end to the war in Bosnia.⁶

In 1994, calls for the lifting of the arms embargo against Bosnia intensified. In January 1994, despite the strong opposition of the Administration, the Senate voted eighty-seven to nine in favor of a nonbinding Dole amendment to the State Department authorization bill⁷ to terminate the United States participation in the arms embargo. The deteriorating situation in Bosnia, most notably the February shelling of the Sarajevo marketplace and the Serb siege of Gorazde in April 1994, led to continued pressure from Members of Congress from both parties to lift the arms embargo. Impatient with the pace of United States and European diplomatic activity, many

³ Fiscal Year 1994 Foreign Operations, Export Financing and Related Programs Appropriations Act, P.L. 103-87.

⁴ Julie Kim and Dianne E. Remeick, *Bosnia-Herzegovina Conflict and the 103d Congress: Policy Debates and Summary of Major Legislation*, CRS Report 94-1008F, Dec. 12, 1994, at 27-28.

⁵ U.S. Department of State Authorization Act, P.L. 103-236

Members concluded that the level of human rights violations in Bosnia had to be stopped even at the risk of damaging relations with our European allies.

Beginning in the spring of 1994, the Congress devoted an extraordinary amount of legislative and debate time to the arms embargo issue. In May 1994, Senators Dole and Lieberman introduced S. 2042, mandating the termination of the United States arms embargo on Bosnia and Herzegovina. The debate on S. 2042 made clear that Members were virtually unanimous about the need to lift the embargo, but divided about whether the United States should break ranks with the allies and lift the embargo unilaterally.⁵

United Nations Security Council Resolution 713 prohibited all member states from shipping arms to the countries of the former Yugoslavia. Subsequent U.N. Resolutions 740 and 787 called upon all members to enforce the embargo against shipments by other countries. The Dole-Lieberman measure purported to relieve the United States of its obligation under U.N. Security Resolution 713 and to end U.S. participation in enforcement activities. First, the Dole-Lieberman bill would have terminated the United States arms embargo against Bosnia. Second, the bill would have prohibited the President or any other member of the Executive branch from interfering with the transfer of arms to the Government of Bosnia. In effect, the measure would have allowed the United States to ship arms and would have prevented the United States from enforcing the embargo against any third country seeking to transfer weapons to Bosnia.⁶ Senator Dole later modified the measure to eliminate the possibility that the nonenforcement of the arms

⁵ Cong. Rec. S3607-S3627 (daily ed. May 12, 1994).

⁶ The measure also made clear that it should not be interpreted as an authorization for the deployment of U.S. troops to Bosnia for any purpose.

embargo would inadvertently allow the transfer of nuclear or other advanced weapons to Bosnia. The modification provided that only conventional weapons appropriate to the self-defense of Bosnia would be allowed. *At no time did the modification or the original measure make any attempt to exclude Iranian shipments or otherwise limit the source of weapons.*

Senate Majority Leader George Mitchell introduced an alternative amendment to S.2042 directing the President to seek the agreement of the NATO allies to terminate the embargo multilaterally, and to propose or support a United Nations Security Council resolution to lift the embargo. If the embargo were not lifted, the Mitchell amendment directed the President to consult with the Congress within five days regarding the unilateral lifting of the embargo. The amendment further instructed the President, upon the termination of the embargo, to ensure that appropriate military assistance was provided to Bosnia. The Mitchell amendment also approved and authorized the use of United States air power to implement the NATO exclusion zones around United Nations designated safe areas and to protect United Nations forces.

On May 12, after extensive debate, the Senate passed the Dole-Lieberman measure as well as the Mitchell amendment, by identical votes of 50 to 49, and proceeded to pass the underlying bill with the two conflicting measures, by voice vote. While the votes left no doubt that the Senate favored lifting the embargo, it sent a mixed message on whether the United States should do so unilaterally. The House Appropriations Committee rejected a Hoyer amendment to the FY 1995 Foreign Operations appropriations bill which would have barred funds for enforcement of the embargo. However, the House subsequently adopted a McCloskey/Gilman

⁷ Cong. Rec. S 3415 (daily ed. May 10, 1994) (statement of Sen. Dole).

amendment to the FY 1995 Defense authorization bill directing the President to terminate the arms embargo and authorizing up to \$200 million in military assistance. An alternative amendment sponsored by Representative Hamilton, supporting NATO and U.N. efforts to enhance Bosnia's ability to contribute to its defense was defeated.

The House debate on June 9, 1994, echoed the one that occurred in the Senate a few weeks earlier. Proponents of the McCloskey amendment argued that concerns about the situation on the ground in Bosnia should override any concern about the views of our NATO allies. Congressman Hyde argued that "America is too important and too moral a country to avert its eyes from genocide and ethnic cleansing. . . ." Opponents of the McCloskey amendment, including the Administration, argued that it would intensify the war, lead to the withdrawal of the United Nations which fed two out of every three Bosnians, end international humanitarian assistance, terminate the peace process, undermine U.N. sanctions worldwide, and risk Americanizing the war.⁴ Congressman Hamilton warned that if the United States began supplying weapons, the Serbs might retaliate by targeting UNPROFOR, in which case:

American forces will be called upon to rescue them. If our allies pull out troops, the fighting intensifies, and we will be called to help. We will be called upon to send weapons in, and we will be called upon for U.S. troops to help keep the delivery routes open. But in a larger sense, we become responsible for Bosnia's fate. Bosnia becomes a client. Our prestige and our power will have to be used to assure a Bosnian victory. We cannot go it halfway.⁵

In a reply of the May debate, the Senate took up the arms embargo as part of its

⁴ Cong Rec. H4741 (daily ed. June 9, 1994) (statement of Rep. Hyde).

⁵ Cong Rec. H4234 (daily ed. June 9, 1994) (statement of Rep. Hamilton).

¹¹ Id.

consideration of the Defense authorization bill. On July 1, the Senate adopted by a vote of 52 to 48, a Nunn-Warner amendment endorsing the efforts of the contact group and expressing the Sense of Congress that if the Bosnian Serbs do not respond constructively to the peace negotiations, the President shall propose or support a U.N. Security Council resolution to terminate the arms embargo. On the same day, the Senate rejected by a vote of 50 to 50 a Dole-Lieberman amendment mandating a unilateral lifting of the arms embargo.

The FY 1995 Defense authorization bill became another vehicle for debate over the United States policy on the arms embargo. The Administration and a bipartisan group of Congressional Members wanted to make the multilateral lifting of the arms embargo a condition precedent to supplying the Bosnian Muslims. A bipartisan group of opponents wanted the United States to arm the Bosnian Muslims regardless of the views of the allies.

Because Members on both sides of the debate wanted arms to reach the Bosnian Muslims, the issue of stopping arms from reaching Bosnia never arose. In effect, the September 1992 decision by the Bush Administration to stop arms from reaching the Bosnians in order to demilitarize the region was ignored during the Congressional debate on the arms embargo.

The Nunn-Warner Amendment.

In seeking to reconcile the conflicting provisions on the arms embargo, the conference committee on the Defense authorization bill adopted language providing that the United States would seek a United Nations resolution ending the arms embargo by the end of October and commence supplying weapons to the Bosnian Muslims if the Serbs did not agree to the peace plan by October 15, 1994. If the United Nations did not terminate the embargo, no U.S. funds

could be used to enforce the arms embargo after November 15. The compromise language also required the President to submit plans to, and consult with, Congress on lifting the arms embargo unilaterally and on providing training to Bosnian Government forces outside the territory of Bosnia. The conference report for H.R. 4301 was approved by the House on August 17, 1994, the Senate on September 13, and the bill was signed by the President on October 5. Thus, as early as August 17, approximately three and one-half months after the Galbraith and Redman meeting with President Tudjman, the House of Representatives had voted to eliminate United States financial support for enforcement of the embargo against the Bosnian Muslims and to set in place a process that could culminate in the shipment of United States arms to Bosnia.

In the meantime, the Senate adopted an amendment to the Defense appropriations bill (H.R. 4650) mandating the unilateral lifting of the embargo on August 11. The measure, sponsored by Senators Dole and Lieberman passed by a vote of 58 to 42. A Nunn-Mitchell amendment similar to the language adopted by the Defense authorization conference also passed by a vote of 56 to 44. At no time during the debate on the Defense authorization bill or the Defense appropriations bill did any Member seek to impose or even discuss a mechanism to limit the flow of arms to Bosnia. Nor did the debate on the Nunn-Mitchell language ever address the issue of Iranian or other sources of weapons flowing to Bosnia. The language of the Nunn-Mitchell amendment prohibits the use of Defense Department funds for enforcing the arms embargo against Bosnia — regardless of whether those weapons come from Iran or any other country. The complete and total absence of any mention of an Iranian role in arms shipments should not suggest that Congress was either unconcerned or unaware of the Iranian role. Rather, the debate demonstrates that the priority of the Congress, like that of the Clinton Administration,

was to get arms to Bosnia.

Both the Nunn-Mitchell and the Dole-Lieberman provisions were dropped in conference — in part because the Nunn-Mitchell language was already included in the Defense authorization bill that was on its way to becoming law. Assistant Secretary of State Richard Holbrooke commented that the Nunn-Mitchell amendment “actually required the Administration to act in a way that . . . is completely consistent with the Galbraith-Tudjman conversation. That is, under Nunn-Mitchell, no funds, personnel, or United States activities of any sort could be used to enforce the arms embargo.”¹¹ He continued: “I would say that basically what Galbraith did was consistent with the law as it was about to be passed.”¹²

A Continuing Push to Lift the Embargo — 1995

In 1995, the debate over unilateral lift continued. In January, Senators Dole and Lieberman introduced a bill to lift the arms embargo against Bosnia.¹³ An identical version of the bill was introduced in the House by Representative Chris Smith in March.¹⁴ In June, the House approved an amendment to H.R. 1561 containing provisions similar to those in the Dole Lieberman bill. The Senate approved S. 21 on July 26 by a vote of 69 to 29. On August 1, the House approved S. 21 by a vote of 298 to 128. President Clinton vetoed S. 21 on August 11.

¹¹ Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 30 (1996) (statement of Assistant Secretary Richard Holbrooke).

¹² S. 21, 104th Cong. (1996).

¹³ H.R. 1172, 104th Cong. (1996).

arguing that the bill would undermine chances for peace, lead to a wider war, and likely result in the rapid withdrawal of UNPROFOR from Bosnia, with U.S. military support.¹⁴ Momentum toward a settlement increased by the end of the summer. After NATO launched its air strike operation against Bosnian Serb military targets in late August 1995, Senator Dole sponsored Senate action on overriding the President's veto.

*Chapter One
Section Four*

PUBLIC AND CONGRESSIONAL KNOWLEDGE OF ARMS FLOWS

Public Statements by the Administration.

From 1993 through 1995, members of the Administration were asked whether the United States abided by the U.N. Security Council Resolutions. As discussed elsewhere in the Minority Views,¹⁵ the United States had a legal obligation to refrain from providing any weapons and military equipment to the co-belligerents of the FR Y.¹⁶ The United States had no international obligation to enforce the embargo against third countries, however.¹⁷ In practice, the Administration carefully walked the line between that which it was prohibited from doing and that which it was simply called upon to do.

As the Administration was not required to enforce the embargo against third countries, it chose not to do so. However, the Administration did not wish to announce or confirm the policy of not objecting to arms shipped to Bosnia by third countries. To do so risked exposing the Bosnian Muslims to even more slaughter. Consequently, the Administration sought to walk the fine line of not sending United States arms, but not objecting to arms sent by third countries.

¹⁴ See Minority Report, for a discussion of United States Obligations Under International Law, at Section 1, Chapter 5.

¹⁵ United Nations Security Council Resolution 713, 1991.

¹⁶ U.N. Security Council Resolutions 740, 787 (1991); see also Minority Report discussion of United States Obligations Under International Law, at Section 1, Chapter 5. Some Members of Congress also argued that under Article 51 of the United Nations Charter, the Bosnian Government had the inherent right to self-defense and that the arms embargo therefore did not apply.

¹⁷ Julie Kim, *Bosnia: Legislation on Lifting the Arms Embargo*, 104th Congress, 1st Session, CRS Report 96-347 F, Apr. 17, 1996, at 1-2.

The Majority Report identifies several instances when the Administration did not walk the fine line perfectly.¹⁸ Most, if not all of the examples, occur in 1995 following enactment of the Nunn-Mitchell amendment¹⁹ which, in essence, prohibited the United States Government from enforcing the arms embargo with respect to Bosnia. Thus, any references made by Administration spokespersons about abiding by the U.N. Security Resolutions applied only to U.N. Security Council Resolution 713.

However, the United States also had international political reasons for avoiding a confirmation of U.S. nonenforcement of third country compliance with the embargo (at least in the six months before enactment of the Nunn-Mitchell amendment). To have confirmed publicly U.S. policy with respect to nonenforcement would have led to a confrontation with the allies. Therefore, the Administration elected to ignore arms shipments to the Bosnian Muslims, but to refrain from making this decision public.

The United States did not, however, approve, permit or support arms shipments from Iran or any other country to Bosnia. The position followed by the Administration was very carefully and narrowly circumscribed: starting in 1993, the United States neither approved of nor opposed arms shipments through Croatia to Bosnia from any source, including Iran. By heaving to this policy line, the United States neither violated the U.N. Security Council Resolution nor triggered a confrontation with the allies.

As the Majority Report points out, in the months prior to enactment of the Nunn-Mitchell amendment, two Administration officials made statements that the United States was enforcing

¹⁸ Majority Report at 33.

the embargo. The other incidents referred to in the Majority Report involve news accounts quoting unnamed Administration officials, and three sets of Administration press guidance that may never have been used. The Majority concludes, based upon these examples, that the United States falsely and consistently denied any U.S. role in the Iranian arms pipeline. The fact is that the United States had no role in the Iranian arms pipeline. Therefore any and all such denials of such a role would be accurate. The Minority would agree that the two statements made by the State Department that the U.S. expected the arms embargo to be respected by third countries were not accurate reflections of United States policy, but the Minority does not think that two offhand statements by State Department officials amount to pattern or practice of misleading statements.

Moreover, the Minority categorically rejects a number of the characterizations of Administration comments made by the Majority. Administration officials did say that the United States was not covertly supplying arms or supporting the supply of arms to the Bosnian government.²⁰ National Security Council press guidance did state that the U.S. did not cooperate, coordinate or consult with any other government regarding the provision of arms to the Bosnians.²¹ Both statements are true. As discussed elsewhere in the Minority Views, the "no instructions" response did not amount to either supplying or supporting the supply of arms, and certainly cannot be characterized as cooperation, coordination or consultation with the Government of Croatia or any other government to provide arms to the Bosnians.

¹⁹ Majority Report at 34.

²⁰ *Id.*

On April 30, 1994, President Clinton addressed the Bosnian situation at a news conference. The President's statement was devoted to making the case for stronger action against Serb aggression. He spoke of the siege on Vozzard and the shelling of Sarajevo.

President Clinton identified the United States objective: to make the Serbs pay a higher price for their acts of violence in order to push them to the negotiating table. The President continued, "in pursuit of that policy, we must take further action."²¹ The President acknowledged the need to work with the United States allies, but it was clear that he expected the United States to be leading the effort to rein in Serb aggression by word and action.

Of course, President Clinton was not aware of the query which President Tudjman would deliver to Ambassador Galbraith the following week. Nevertheless, the remarks made by the President on April 30 demonstrate a commitment by the United States to do what it could to help the Bosnian Muslims so long as the United Nations Security Council Resolution was not violated and the allies did not threaten to pull out of the peacekeeping force.

Public Information.

Information that arms were flowing to Bosnia was readily available to Members of Congress and their staffs.²² Readers of *The Washington Post* and viewers of CNN were informed in the spring of 1994 that Iran was one of the countries supplying weapons to the

²¹ Clinton News Conference, AP Online, Apr. 30, 1994.

²² For a list of press accounts of arms flows to Bosnia, see Appendix F.

Bosnian Muslims."²³ Some news accounts noted that governments, including the United States Government, were turning a blind eye to the shipment.²⁴ Many of the news accounts were highly detailed. For example, an August 2, 1994, *Washington Times* piece contained a chart chronicling arms shipments to Serbia, Croatia, and Bosnia, from April 1992 to April 1994. During that period, Iran was reported to have shipped \$20 million worth of arms to Bosnia and another \$5 million worth of arms to Croatia. By contrast, the countries of the former Soviet Union were reported to have shipped \$360 million in arms to Serbia, while Slovakia reportedly shipped \$100 million in weapons.²⁵ From August 1992 to September 1994, well over a dozen articles describing leaks in the embargo appeared in major newspapers.²⁶ Many of these news stories ran on the front page.

During floor debate on legislation to lift the arms embargo on June 24, 1994, Senator John McCain expressed concern about reports of Iranian flows and read into the Congressional Record an article from that day's *Washington Times* chronicling Iranian arms deliveries to

²³ John Poonford, *Iranian Ships Exploited to Bosnian Muslims: Embargo-Busting Cargo Also Aids Croatia*, *The Washington Post*, May 13, 1994, at A1, A43; Ralph Begleiter, *Weapons Flowing to Bosnia in Violation of U.N. Embargo*, CNN, June 7, 1994.

²⁴ Bill Gertz, *Iranian Weapons Sent Via Croatia: Aid to Muslims Gets U.S. Wink*, *Washington Times*, Jun. 24, 1994, at A1.

²⁵ Paul Beaver, *Iran Uses Russian Planes to Supply Bosnian Muslims, Croatian Troops*, *Washington Times*, Aug. 2, 1994, at A14.

²⁶ See Appendix F for a selected list of major press articles regarding leaks in the United Nations arms embargo.

Bosnia.²⁷ In addition, on August 11, 1994, during the debate on the Nunn-Mitchell amendment to the Defense Department authorization bill, Senator Dole acknowledged awareness of intelligence reporting on arms shipments to Bosnia when he expressed concern that Nunn-Mitchell would continue to permit United States intelligence personnel, other than Defense intelligence personnel, to collect intelligence on arms shipments.²⁸ In June 1995, Senator Dole again referred to the Iranian shipments, acknowledged Administration knowledge of those shipments, and even suggested that the Bosnians were justified in receiving those shipments:

The fact is the arms embargo has guaranteed that Iran is a key supplier of arms to Bosnia and administration officials have actually used that fact to argue that there is no need to lift the arms embargo. What other choices do the Bosnians have? They are going to find weapons where they can find weapons.²⁹

Those who followed Bosnia issues more closely also could find reporting on the issue in the European press and in the Foreign Broadcast Information Service (FBIS) daily reports, an unclassified translation of foreign news articles and broadcast published by the CIA.³⁰ Since 1991, FBIS carried at least 35 pieces chronicling the growing economic and political ties between Croatia, Bosnia, and Iran.

Intelligence Information.

Intelligence reports made available to Congress also chronicled links in the arms

²⁷ Bill Gertz, *Iranian Weapons Sent Via Croatia: Aid to Muslims Gets U.S. 'Wind'*, The Washington Times, Jan. 24, 1994, at A1.

²⁸ Cong. Rec. S11265 (daily ed. Aug. 11, 1994) (statement of Sen. Dole).

²⁹ Cong. Rec. S7880 (daily ed. June 7, 1995) (statement of Sen. Dole).

³⁰ See Appendix F for a listing of foreign press reports.

embargo. Products containing information on violations of the arms embargo included the National Intelligence Daily (the "NIDS"), the Military Intelligence Daily (the "MID"), daily and weekly situation reports prepared by the Balkan Task Force ("BTF"), and periodic special reports.³¹ Deputy Secretary Talbot told a Senate Committee that "you had a lot of the same information available to you that we were operating on within the Executive branch. . . I am referring to classified information about many things, but including the flow of Iranian arms into Bosnia that was generally available to the Congress more or less contemporaneously to when it was available to us."³²

The National Intelligence Daily is provided on a regular basis to the Members and appropriately cleared staffs of eight Congressional Committees. In 1994, the Committees included the House Foreign Affairs Committee, the House Armed Services Committee, the House Intelligence Committee, the House Appropriations Committee Subcommittee on National Security, the Senate Foreign Relations Committee, the Senate Armed Services Committee, the Senate Intelligence Committee, and the Senate Appropriations Committee Subcommittee on Defense.³³ The House and Senate leadership and their appropriately cleared staffs also had access to these materials. In addition to the more than 120 Members of the House leadership and relevant Committees and the nearly 60 Members of the Senate leadership and relevant

³¹ See Appendix E for a list of dates of articles in the NIDS containing information on arms shipments to Bosnia.

³² SSCT Hearing, Statement of Strobe Talbot, Sept. 1996, at 37 (Hereinafter "Talbot SSCT Dep.").

³³ Letter from David P. Holmes, Deputy Director of Congressional Affairs, to Michele Maynard, (Oct. 8, 1996).

committees to whom intelligence reports are made available on a daily basis, other Members of Congress can review the NIDs and other intelligence material upon request. In 1994, 530 House and Senate Committee staff members held the necessary clearances to review the NIDs and other highly classified intelligence products.

Between January 1994 and December 1995, [redacted] the NID carried reports of actual or arranged arms shipments to Bosnia; many of them specifically referred to Iranian shipments transiting Croatia en route to Bosnia.³¹ [redacted]

[redacted] The Bosnians were making these requests in the wake of the Federation Agreement. The Croats, in turn, sought the United States view.

The suggestions made by some that the request was initiated by United States government officials cannot be given any credence in light of the March and April intelligence reporting. [redacted]

Other intelligence products also carried reports of arms embargo violations. For example, from April 1994 through August 1995, information about actual arms shipments and/or Iranian activities in the region appeared in [redacted] of the Balkan Task Force's Daily Situation Reports. These reports were provided to the House and Senate Intelligence Committees, to the Subcommittees on National Security of the House Appropriations Committee, and to the Senate Security Office for review by Members and appropriately cleared staff of the Senate Foreign

³¹ See Appendix E.

Relations Committee and Senate leadership [redacted]

The intelligence reporting on arms shipments to Bosnia should not be considered in a vacuum. Intelligence reports also contained information about weapons transfers to Serbia from third countries, as well as transfers to the Bosnian Serb forces in violation of the arms embargo. The disparity in arms shipments between the Serbs and Bosnian Serbs on the one hand and the Bosnian Muslims on the other is dramatic evidence of why providing the Bosnians with arms was so crucial in the spring of 1994. Absent these shipments, including the Iranian shipments, Bosnia might have been completely overrun.

Briefings.

Members and staff also were briefed on the situation in Bosnia on a regular basis. In 1994, the State Department conducted a minimum of thirty-five briefings on Bosnia, and in 1995, it conducted nearly 150.³² The [redacted] Balkan Task Force also conducted numerous briefings on all aspects of the situation in Bosnia, including the military situation, violations of sanctions against Serbia and Montenegro, and violations of the arms embargo against all of the republics of the former Yugoslavia. According to CIA records, the issue of arms transfers was discussed on at least fourteen occasions between February 1994 and December 1995.³³

Former U.S. Senator Dennis DeConcini, Chairman of the Senate Select Committee on

³² U.S. Department of State Bosnia Briefings Calendar. According to the State Department, entries between January and September 1994 may not be complete.

³³ Attachment to Letter from David P. Holmes, CIA, to Michelle Maynard, Oct. 8, 1996, at 1-2 (noting the number of briefings given by the Balkan Task Force at which the issue of arms flows to Bosnia was discussed).

Intelligence in 1994 recalls being briefed as early as 1992 about clandestine arms shipments to Bosnia from Iran and other Islamic countries. In May 1994, Senator DeConcini and other Senators were briefed by Director James Woolsey of the Central Intelligence Agency about arms shipments to Bosnia from Iran and other Islamic countries. Senator DeConcini also remembers reading press reports about Iranian arms shipments to Bosnia in May and June 1994, but recalled specifically being briefed on the issue prior to reading the press reports. He further recalls being told by a brieter from the Central Intelligence Agency in early May or late June of 1994 that Ambassador Galbraith had "silvered a "no instructions" response to President Tudjman.

Congressional Delegation Trips/Staff Delegation Trips to Croatia and Bosnia

According to State Department records, nearly forty Congressional and staff delegations traveled to Croatia in 1994 and 1995. During these visits, Members and staff had the opportunity to discuss with Embassy officials a wide range of issues related to the Balkan conflict. Most received a country briefing from Ambassador Galbraith. The Ambassador testified that he discussed the general issue of the arms flows to Bosnia with Congressional Members and staff who visited Zagreb in the summer and fall of 1994.³⁸ Galbraith discussed with members of delegations "the fact that arms were flowing to the Bosnians, that Iran was one country that was

³⁸ Select Subcommittee Interview of the Honorable Dennis DeConcini, Oct. 7, 1996, at 1 (hereinafter "Select Subcommittee Int. of Hon. DeConcini").

³⁹ Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 91 (hereinafter "Galbraith Subcommittee Dep. 7"). In particular, the ambassador discussed the issue with a Senator as well as a foreign policy advisor to another Senator, both of whom visited Zagreb in June 1994. Ambassador Galbraith also testified that it is conceivable that he discussed the issue of arms flows with a second Senator during that time.

supplying them, and that we were not objecting."⁴⁰ He did not, however, inform anyone of the specific exchange with President Tudjman.

Ambassador Galbraith had discussions with Senators in the context of the Congressional debate over the unilateral lifting of the arms embargo. Ambassador Galbraith made the point that there were many negative consequences to unilateral lift, and that, "in any event, arms were reaching the Bosnian Muslims."⁴¹ Galbraith testified that while he cannot recall whether he mentioned that Iran was one of the suppliers, he would not, in theory, have been reluctant to mention such a fact.⁴² During a June 1994 trip to Zagreb, congressional staff asked Ambassador Galbraith about intelligence reports recounting weapons shipments into Bosnia from Iran and possibly elsewhere. Ambassador Galbraith confirmed the accuracy of those reports, and that the United States was not objecting to those shipments.⁴³ Ambassador Galbraith also testified that in a phone conversation with a senator on the issue of the arms embargo, he pointed to the fact that arms were getting through to the Bosnians as a reason that a unilateral lifting of the arms embargo was not necessary.⁴⁴

The Administration made no attempt to restrict Congressional knowledge about the flow of arms to Bosnia. As Deputy Secretary Talbot testified, "... the Congress was, broadly speaking, aware, as we were, of the Iranian connection in Bosnia because it was reported on a

⁴⁰ *Id.* at 88.

⁴¹ *Id.* at 91.

⁴² *Id.*

⁴³ *Id.* at 138-139.

⁴⁴ *Id.* at 93.

regular basis in intelligence channels and appropriate staff."⁴³

Despite the published reports, intelligence reporting, briefings, codets and stafffiles, no Member of Congress and no staff person ever requested the Administration to take action to stop the weapons transfers. Under secretary of State Tamoff, who was "fairly systematically involved in briefing Congress" on Bosnia issues, recalls no questions being posed about what the United States should do, if anything, to prevent Iranian arms from reaching Bosnia.⁴⁴

Some Members of Congress have asked rhetorically whether the Congress should be getting its information from press accounts. The rhetorical question is disingenuous. Intelligence materials are made available precisely so that Members do not have to rely on press accounts. Members who choose not to review or be briefed on the intelligence reporting are, in effect, choosing to rely upon press reports.

Congressional Knowledge of the Diplomatic Exchange.

While there is ample evidence that Members of Congress and their staffs were aware that arms were flowing to Bosnia with the full knowledge of the U.S. Administration and the allies, the Administration did not seek to disclose the particular diplomatic exchange between Ambassadors Galbraith and Redman and President Tadjman on the issue to any Member of

⁴³ Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 50 (hereinafter "Talbott Subcommittee Dep.").

⁴⁴ Select Subcommittee Deposition of Peter Tamoff, Sept. 13, 1996, at 37 (hereinafter "Tamoff Subcommittee Dep.").

Congress or their staff.⁴⁵ The failure of the Administration to inform the Congress about a diplomatic exchange between a United States Ambassador and a foreign head of state is not a violation of law. Nevertheless, the timing of and circumstances surrounding the meeting were unique, and the Administration should have considered informing a select group of Members about the Croatian inquiry and the United States response.

The consensus testimony of United States foreign policy and military officials to the Select Subcommittee confirms that directing Ambassador Galbraith to tell Tadjman he had "no instructions" was the right choice. Policy makers also had confidence that the "no instructions" response was consistent with the sentiment in the Congress given the overwhelming Congressional votes favoring assistance to the Bosnian Muslims that had occurred in the preceding months.

I think the way we approached the issue is to say that we believed it was consistent with strong sentiment in Congress which we shared; namely, that the arms embargo was unfair, disadvantageous to the Bosnian Government, and therefore, what we decided with respect to the specific issue that was put to us in late April of 1994 was not inconsistent with the view in the Congress and the country, which the administration shared, and that was that there was unhappiness about the arms embargo and it was advantageous to the Muslim side.⁴⁶

The Administration regarded the conversation among Special Envoy Redman and

⁴⁵ Former Senator DeConcini informed the Select Subcommittee that he was informed of the "no instructions" response delivered by Ambassador Galbraith to President Tadjman at a routine intelligence briefing. It appears that the briefer was acting independently. The CIA has no record that such a briefing occurred. Senior Administration policy makers were not aware of that particular briefing or that information regarding the "no instructions" response had been shared with any Member of Congress. Select Subcommittee Int. of Hon. DeConcini, at 2.

⁴⁶ Tamoff Subcommittee Dep. at 18-19.

Ambassador Galbraith and President Tudjman as a diplomatic exchange consistent with existing policy.¹⁰ With respect to which Congressional notification under section 662 of the National Security Act of 1947 was not required.¹¹ Consequently, the Administration kept the specific exchange between U.S. diplomats and Croatia's head of state confidential. "As for keeping the transaction, the exchange confidential, of course we wanted to keep it confidential. We would by as best we can to keep much of our diplomatic activity confidential."¹²

Deputy Secretary Talbot testified that the Administration chose to be discreet about the exchange due to "the delicate state of our relationship with our allies who had troops on the ground." There is a real chance -- this is all hypothetical of course -- if we had taken a course of action or briefed it . . . to the Congress and it had leaked, there is a good chance that our

European allies and the Canadians might have pulled out in which case disaster would ensue.¹³ The Administration's concerns about leaks and the impact of leaks upon U.S. allies are

legitimate. In this case, however, resolving the concerns by withholding the information from all

¹⁰ Id. at 46.

¹¹ For a more thorough discussion of notifications required under the National Security Act of 1974, see Chapter One, Section Five, which discusses the history and application of Covert Action requirements.

¹² Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence, 104th Cong. 26 (1996) (statement of司徒 Talbot). This decision was not unanimous, however. At least one senior Administration official, Richard Holbrooke, suggested that a select group of leadership of both parties be informed about the diplomatic exchange with President Tudjman. However, that recommendation was rejected. See: Select Subcommittee Deposition of Ambassador Richard Holbrooke, Sept. 27, 1996, at 10-11 (hereinafter "Holbrooke Subcommittee Dep. 7").

¹³ Talbot Subcommittee Dep. at 47.

Members of the Congress may have been extreme.¹⁴ The delivery of the "no instructions" response was clearly relevant to the Congressional debate about the arms embargo. The central figures in the debate such as the Majority and Minority leaders, the Chairman and Ranking Members of the House and Senate Armed Services Committees, the House Foreign Affairs and Senate Foreign Relations Committees and the House and Senate Intelligence Committees are accustomed to managing highly confidential information in a discrete way. The failure to provide the information to any member can lead to distrust and suspicion when, as is almost always the case, the information is finally revealed. The fact that the Congress was moving toward a position equivalent to the "no instructions" response suggests that selected Members of Congress could have been informed.

However, while the failure to inform any Members of Congress was a mistake, the cure is not to enact a statute that requires Congressional consultation in the case of a diplomatic exchange. The Administration should maintain the discretion to decide when and how to inform Congress of a diplomatic exchange. In this case, the discretion may not have been exercised as it should have been. A response to a head of state or an issue of enormous international significance that occurs at the same time that Congress is debating the very same issue justifies limited disclosure to selected Members of Congress. Had Members been informed in this case, many of the questions that the Select Subcommittee considered might never have been asked.

¹⁴ See Chapter One, Section Five for a legal discussion of the Intelligence Authorization Act of 1991 and the rationale behind the omission of diplomatic exchanges as a matter that would require Congressional notification.

A LEGAL DISCUSSION OF COVERT ACTION

The most serious of the issues reviewed by the Select Subcommittee is whether any official of the United States Government violated the law. The success of a policy does not, in any circumstances, justify illegal conduct. The Minority considered these allegations with the utmost seriousness: Attorneys with the Central Intelligence Agency, the National Security Council and the Department of State were consulted. The conclusions are clear. No violations of law occurred, and no conduct that even approaches a violation of law took place.

The Executive Branch Did Not Violate the Law.

The U.S. Government activities investigated by the Select Subcommittee implicate legal requirements of three sorts: the regulation of covert actions, the reporting requirements relating to intelligence activities, and U.S. obligations under international law. There can be little doubt that Executive Branch actions were consistent with all of these legal requirements. But while the failure of Executive Branch officials to inform Congress of the "no instructions" response was not a violation of law, it may have been an error of judgment.

History of Covert Action Requirements.

The history of the restrictions on covert action, which demonstrates the care and precision that have gone into formulation of the statutory definition, has been set out in prior congressional

committee reports.¹ The first congressional attempt to regulate the conduct of covert actions, which was prompted by reports of U.S. involvement of the ouster of the Allende government in Chile, occurred with the enactment of the Hughes-Ryan Amendment to the Foreign Assistance Act in 1974. This provision barred the CIA from conducting non-intelligence-gathering "operations" in foreign nations unless the President first informed Congress of the importance and nature of the activity. The term "operations" was not defined in the statute or discussed in its legislative history.²

At the time that the Hughes-Ryan Amendment was passed, the CIA considered "covert actions" to be "any clandestine operation or activity designed to influence foreign governments, organizations, persons or events in support of United States foreign policy."³ The scope of this definition was illustrated in a detailed discussion of the covert operations conducted by United States intelligence agencies since the drafting of the National Security Act of 1947 conducted by the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, Foreign and Military Intelligence (the "Church Committee"). The Church Committee

¹ See H.R. Rep. No. 705, 100th Cong., 2d Sess., 8-11 (1988).

² Foreign Assistance Act of 1974, Pub. L. No. 93-559, § 662 (1974). The Hughes-Ryan Amendment stated, in pertinent part, that "[n]o funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress * * *." 22 U.S.C. § 2422 (1994) (repealed by Pub. L. No. 102-85, tit. VI, § 601, 105 Stat. 441 (1991)).

³ See Senate Select Comm. to Study Governmental Operations With Respect to Intelligence Activities, *Foreign and Military Intelligence*, S. Rep. No. 755, 94th Cong., 2d Sess., vol. 1 at 141.

noted that by 1953 major covert operations were underway in 48 countries, and that several thousand such projects had been undertaken between 1961 and 1976.⁴ In its exhaustive review of U.S. intelligence activities, goals, and policies, however, the Church Committee did not propose a more narrowly tailored definition of covert action.

In 1980 Congress enacted the Intelligence Oversight Act, which modified the Hughes-Ryan Amendment and added a new Title V to the National Security Act. The 1980 statute dealt with intelligence oversight in general and covert actions in particular. The Act provided that covert actions and other "intelligence activities" were within the scope of the CIA "operations" that required Presidential findings and reports to Congress.⁵ In addition, the 1980 legislation specifically required all executive branch entities involved in intelligence matters to keep the congressional intelligence committees "fully and currently informed of all intelligence activities, including any significant anticipated intelligence activity."⁶

The phrase "significant anticipated intelligence activity" was explained in general terms as covering "covert operations" and "certain other intelligence activities specified in consultation with the executive branch."⁷ The term was intended to encompass "the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees."⁸ The Senate Report makes clear that the phrase "significant" was meant broadly:

⁴ *Id.* at 133.

⁵ See Pub. L. No. 96-450, § 501(a).

⁶ H.R. Conf. Rep. No. 1350, 96th Cong., 2d Sess. 16, reprinted in 1980 U.S.C.C.A.N. 4192, 4212.

⁷ *Id.*

An anticipated activity should be considered significant if it has policy implications. This would include, for example, activities which are particularly costly financially, as well as those which are not necessarily costly, but which have * * * [significant] potential for affecting this country's diplomatic, political, or military relations with other countries or groups. * * * It excludes day-to-day implementation of previously adopted policies or programs.⁹

On the other hand, Congress made no attempt to define the terms "covert action" or "intelligence activity." Instead, the committee reports indicated, rather unhelpfully, that the Executive Branch and the congressional intelligence committees expected to work together "to delineate the matters covered by this provision."¹⁰

The Executive Branch, meanwhile, took it upon itself to fill in some of the definition gaps in the statutes. Executive orders issued by President Carter in 1978 and President Reagan in 1981 explicitly recognized that "diplomatic activities or the collection and production of intelligence or related support functions" are not within the definition of "special activities" (a euphemism for covert actions).¹¹

The concepts in the executive orders and the understandings that had evolved between Congress and the intelligence agencies were incorporated in the current statutory definition of

⁹ S. Rep. No. 730, 96th Cong., 2d Sess. 8, reprinted in 1980 U.S.C.C.A.N. 4192, 4198 (quoting Report of the Committee on Government Operations, U.S. Senate, to accompany S. Res. 400, 1976, at 26-27).

¹⁰ *Id.*

¹¹ Executive Order No. 12,036, § 4-212, 3 C.F.R. 112, 134 (1979); Executive Order No. 12,233, § 3.4(d), 3 C.F.R. 200, 215 (1981); see also Executive Order No. 11,905, § 2(c), 3 C.F.R. 90, 91 (1977) (excluding the "collection and production of intelligence and related support functions").

"covert action," which was enacted in 1991. The definition provides:

As used in this subchapter, the term "covert action" means an activity or activities of the United States Government to influence political, economic, or military conditions abroad where it is intended that the role of the United States Government will not be apparent or acknowledged publicly; but does not include (1) activities the primary purpose of which is to acquire intelligence, traditional counter-intelligence activities, traditional activities to improve or maintain the operational security of United States Government programs, or administrative activities; (2) traditional diplomatic or military activities or routine support to such activities; (3) traditional law enforcement activities conducted by United States Government law enforcement agencies or routine support to such activities; or (4) activities to provide routine support to the overt activities (other than activities described in paragraph (1), (2), or (3)) of other United States Government agencies abroad.⁴¹

Congress intended that the definition would not "exclude any activity which heretofore had⁴² been understood to be a covert action, nor to include any activity not heretofore understood to be a covert action."⁴³

The No Instructions Response did not Constitute Covert Action

Viewed against the controlling definition, the no-instructions policy and the actions taken by U.S. officials to implement it cannot be viewed as covert action.⁴⁴ There is no suggestion in the language of the covert action definition, or in the statutory formulations that preceded the current definition, that a U.S. request to a third country -- much less a refusal by the United

⁴¹ Intelligence Authorization Act of 1991, Pub. L. No. 102-88, § 503(e), 105 Stat. 439 (codified at 50 U.S.C. § 413(b)(1) (1994)).

⁴² H.R. Conf. Rep. No. 166, 102d Cong., 1st Sess., 28, reprinted in 1991 U.S.C.C.A.N. 193, 231; see also S. Rep. No. 85, 102d Cong., 1st Sess., 42, reprinted in 1991 U.S.C.C.A.N. 193, 235 (the definition is intended to "reflect current practice as it ha[d] developed under the Hughes-Ryan Amendment and the Executive Order definition of special activities").

⁴³ See Chapter Two, Section One for a discussion of the need for and formulation of the "no instructions" response.

States to respond to an inquiry from a third country -- constitutes covert action on the part of the United States. To the contrary, the covert action definition specifically excludes "traditional diplomatic . . . activities." This exclusion reaches the "use of diplomatic channels or personnel to pass messages and conduct negotiations between the United States and other governments or foreign entities. Traditional diplomatic activities, in this context, include activities long understood and accepted to be diplomatic in nature, including the use of private citizens as intermediaries."⁴⁴ The exchange between Ambassador Galbraith and President Tudjman falls well within this traditional "diplomatic category."

This conclusion is confirmed both by longstanding practice and by clear legislative history. The CIA legal staff indicates that the Agency never has regarded U.S. requests to third parties as constituting covert action on the part of the United States, an understanding that predated the 1991 legislation. That background is of special significance because the 1991 definition was intended to "reflect the [pre-1991] practice."⁴⁵

Indeed, Congress made a conscious -- albeit controversial -- decision to exclude requests to third countries from the definition of covert action enacted in 1991. As originally passed by both Houses and presented to the President, the statutory definition expressly provided that "[a] request by any department, agency, or entity of the United States to a foreign government or a private citizen to conduct a covert action on behalf of the United States shall be deemed to be a

⁴⁴ S. Rep. No. 85, supra, at 45.

⁴⁵ S. Rep. No. 85, supra, at 42.

covert action."¹⁴ Recognizing that the Bush administration objected to this language, the

Chairmen of the House and Senate intelligence committees wrote to the President, stating that

Congress did not intend the provision to foreclose or inhibit certain contacts with third parties:

[This provision is not intended] to preclude the informal contacts and consultations which would be required prior to the United States officially requesting a third country or private citizen to undertake [covert action] on its behalf. Only once it had been determined that such assistance was feasible and is made the subject of an official request by the United States Government would the requirement for a finding and reporting to the intelligence committees come into play. That is, indeed, consistent with the understandings that have long existed between the Administration and the two committees.¹⁵

President Bush nevertheless pocket vetoed the bill, pointing to the third-party language.

among other things. The President was concerned that this provision:

could have a chilling effect on the ability of our diplomats to conduct highly sensitive discussions concerning projects that are vital to our national security. Furthermore, the mere existence of this provision could deter foreign governments from discussing certain topics with the United States at all. Such a provision could result in frequent and divisive disputes on whether an activity is covered by the definition and whether individuals in the executive branch have complied with a statutory requirement.¹⁶

The Senate responded to the pocket veto by attempting to accommodate the President

while retaining specified third-party activities within its definition of covert action. Although

eliminating the language targeted by President Bush, the Senate would have provided that "covert

action" means an activity or activities conducted by, or on behalf and under the control of, an

¹⁴ S. 2834, 101st Cong., 2d Sess. (1991).

¹⁵ H.R. Rep. No. 37, 102d Cong., 1st Sess. 3 (1991).

¹⁶ See Memorandum of Disapproval for the Intelligence Authorization Act, Fiscal Year 1991, Pub. Papers 1729-30 (1990).

element of the United States Government * * * ."¹⁷ The Chairman of the Senate Select

Committee on Intelligence explained that he and the Administration had been unable to agree on

the precise degree of U.S. control necessary to satisfy this definition:

[W]e have agreed to drop the word "request," which was at the heart of the President's concern, but to amend the definition of covert action to clarify that any covert action which is undertaken "on behalf of the United States and under" its control will require a finding and notice to the Congress. In [Senate] report language on this provision, we go on to state that we regard any situation where the United States is providing funding or other forms of significant assistance to a third party, or U.S. personnel are involved in providing direction and assistance to a third party to undertake a covert action on behalf of the United States, we consider these situations to require prior Presidential approval, and reporting to the Congress.

The administration agrees with this approach. What we were unable to agree on is whether the circumstances cited in the report language were the only circumstances where U.S. control of a third party [sic] might constitute a covert action. The administration would, indeed, have preferred describing these circumstances as the only ones where U.S. involvement might constitute control for purposes of the definition. My personal view is that there could be circumstances other than those cited specifically in the report language where U.S. involvement might constitute control. The report language is silent on this point, however, setting forth only the circumstances where agreement was possible.¹⁸

The House took a different tack. As the Chairman of the House Permanent Select

Committee on Intelligence explained, "[w]e proposed a compromise designed to make certain

that the same approval and congressional notification standards apply to covert actions

undertaken for the United States as apply to those undertaken by the United States. That

compromise, which would have made clear that covert actions directed, controlled, or induced by

¹⁷ S. 1325, § 503(e) 102d Cong., 1st Sess. (1991).

¹⁸ 137 CONG. REC. S9211 (daily ed. June 28, 1991) (statement of Sen. Boren).

the United States had to be reported to Congress, was rejected."²¹ The House bill therefore omitted all mention of requests to third countries. :

The Conference Committee ultimately adopted the House position. As Representative Shuster explained:

The "third party request" provision was of great concern to the President because it was capable of such a potentially broad interpretation that it could have seriously interfered with the conduct of sensitive foreign relations. Detailed and lengthy efforts were made to appropriately focus the original language, but the problem of defining the outer limits of the provision without disrupting legitimate diplomatic relations ultimately proved too complex. In view of this seemingly intractable problem and the significant progress made on the other issues, the conferees decided to drop the "third party request" provision.²²

President Bush signed the legislation, declaring himself "pleased that the Act, as revised, omits any suggestion that a 'request' by the United States Government to third parties may constitute 'covert action' as defined by the Act."²³

This history clearly establishes that U.S. requests to third countries do not constitute covert action on the part of the United States. President Bush specifically objected to the third-party language in the initial version of the covert action definition; as enacted, the statute omitted both that language and the weaker third-party provision in the proposed Senate replacement.

This is persuasive evidence that a request to a third party is not covert action. As a consequence,

²¹ 137 CONG. REC. H2621 (daily ed. May 1, 1991) (statement of Rep. McCurdy).

²² *Id.*

²³ 137 CONG. REC. H6161 (daily ed. July 31, 1991) (statement of Rep. Shuster).

²⁴ Statement by President George Bush Upon Signing H.R. 1455, 27 WEEKLY CONG. PRESS DOC. 1137 (Aug. 19, 1991), reprinted in 1991 U.S.C.A.N. 257.

even if the no instructions response is regarded as a request that Croatia itself engage in covert action, such a request should not be regarded as covert action on the part of the United States.

Beyond that, of course, the communication of "no instructions" was not a U.S. request for action; it was the absence of a veto on action proposed by Croatia. The Minority regards this difference as significant. Giving covert action status to a U.S. decision not to object to a third party's proposed activities would have very broad implications. Variations on this situation undoubtedly arise with great frequency, as allies give the United States a "heads-up" about contemplated action. Does failure by the United States to object to these proposals require a presidential finding? In this light, treating Ambassador Galbraith's exchange as covert action would create insuperable line-drawing problems, lead to bureaucratic paralysis, and discourage communications from other nations. These are precisely the consequences that President Bush sought to avoid with his 1990 veto.

Indeed, Representative Shuster made just that point in explaining the considerations that led to elimination of the third-party provision from the 1991 legislation:

It is not too difficult to envision this uncertainty [that would result from treating communications with third countries as covert action] at work. Consider the case of an animated confidential exchange between a United States and foreign official concerning a sensitive international threat to our two countries' mutual interests.

Suppose the U.S. official says, "We know you have the capability to mount a particular covert action, which we believe might neutralize this threat on behalf of both our vital interests. Why don't you undertake that specific covert action?"

Now, is that a request which is subject to the covert action approval and reporting requirement, or is it merely seeking an explanation of our ally's policy? Reasonable minds might reach different conclusions.

But if the poor U.S. official in a faraway foreign country, attempting to represent the United States in such a situation, has to constantly worry about whether such statements

might later be determined to be an unlawful request for a third party covert action, he may well feel compelled to exercise stringent self-censorship, not conducive to the effective conduct of his foreign affairs responsibility.²⁷

Neither the Convoys nor the ~~Missile Incident~~ Constituted Covert Action.

The other incidents that have been the subject of the Subcommittee's inquiry also did not constitute covert action -- a conclusion shared by legal staff at the CIA, who do not believe that any events related to the Subcommittee's investigation amounted to covert action. Two episodes warrant brief mention.

First, efforts by U.S. officials -- if they occurred -- to assist humanitarian convoys en route to Bosnia cannot be considered covert action for the simple reason that these were not actions where, in the statutory terms, it was "intended that the role of the United States Government [would] not be apparent or acknowledged publicly."²⁸ Public activity cannot fall within the definition, even if the action is intended to mislead a potential adversary, or if the specific objectives of an activity are publicly misrepresented or are concealed altogether.²⁹ That would be so even if the United States had reason to believe that some convoys might contain arms; the legislative history indicates that U.S. activities are not covert actions simply because the U.S. objectives are misrepresented or concealed. In any event, U.S. intervention, if it

²⁷ 137 Cong. Rec. H2623 (May 1, 1991) (statement of Rep. Shuster).

²⁸ See Chapter Two, Section Four for discussion of the humanitarian convoys.

²⁹ See H.R. Conf. Rep. No. 166, supra, at 29; S. Rep. No. 85, supra, at 43.

occurred at all, did not go beyond requesting action by third parties, which should not be considered covert action for the reasons explained above.

Second, the inspection of Iranian missiles by U.S. military personnel does not constitute covert action.³⁰ The inspection was not "an activity . . . to influence political, economic, or military conditions."³¹ It was not a U.S.-initiated attempt to achieve a particular policy goal; instead, it was a technical support function designed to assist an ally's activities. U.S. officials thus did not ask, and were not told, what happened to the missiles after the inspection.

Moreover, requiring a presidential finding for the sort of on-the-fly, reactive activity represented by the missile inspection surely would be most impractical; even if the inspection were thought to fall within the literal terms of the statute, the exclusion of such fast-moving activities from the covert action definition finds clear support in the legislative history.

Describing the historical treatment of covert actions, the Senate Report indicated:

[Certain] activities that may literally fall within the definitions [of covert action] but for which it would be impractical to seek Presidential approval and report to Congress on a case-by-case basis, have been assumed not to be covert action. To some extent, Congress has known of and acquiesced in this practice and has worked with the executive branch to develop mutually agreeable understandings of the reach of the reporting requirements.³²

The exclusion of such actions from the definition therefore reflects the historical practice that Congress sought to codify.

The Executive Branch was not Under a Legal Duty to Report the "No Instructions" Response.

³⁰ See Chapter Two, Section Seven for a discussion of U.S. activities regarding inspection of Iranian missiles.

³¹ S. Rep. No. 85, supra, at 42. See H.R. Rep. No. 705, 100th Cong., 2d Sess. 38 (1988), accompanying H.R. 3822.

The Executive Branch was not under a legal obligation to report the "no instructions" response as an intelligence activity. Since 1980 the heads of all agencies "involved in intelligence activities" have been obligated to "keep the intelligence committees fully and currently informed of all intelligence activities."²⁰ The statute includes no definition of the intelligence activities that are subject to this mandatory reporting requirement. The legislative history indicates only that the term "is intended to encompass the full range of intelligence and intelligence-related activities within the jurisdiction of the two select committees."²¹

It nevertheless is plainly clear that, at least in the ordinary case, diplomatic exchanges such as the "no instructions" response do not qualify as "intelligence activities" within the meaning of the statutory term. The covert action definition reflects the recognition that diplomatic and intelligence activities constitute distinct categories; there is no reason to doubt that the same distinction applies under Section 4134(1). Similarly, the specific intelligence activities discussed in connection with the 1991 legislation -- "covert paramilitary operations, propaganda, political action, election support," and, of course, intelligence collection and counterintelligence measures;²² -- have no similarity to diplomatic exchanges. That conclusion has an obvious common sense basis: requiring reports on all diplomatic exchanges touching on intelligence matters would be inordinately burdensome and would involve diplomats in the

²⁰ 50 U.S.C. § 4134(1).

²¹ H.R. Conf. Rep. No. 1350, supra, at 16 n.1.

²² S. Rep. No. 85, supra, at 42.

drawing of unmanageable lines. Under current practice, such exchanges are not regarded as subject to the mandatory reporting requirement.

Executive Branch Officials Should Have Disclosed the "No Instructions" Response to Congress.

Concluding that the Executive Branch was under no legal obligation to report the "no instructions" response, however, is not to say that the Galbraith-Tudman exchange -- and the policy considerations that underlay the response to President Tudman -- should have been withheld from Congress. In fact, it is the Minority view that the better course may have been for Executive Branch officials to have notified selected Members of the appropriate Congressional committees or, perhaps, the Congressional leadership.

In reaching this conclusion, we do not suggest that Executive Branch officials meant to mislead the Congress. There is absolutely no evidence that Executive Branch officials made misstatements in official presentations or in answers to congressional inquiries. Moreover, Executive Branch officials did not regard the "no instructions" response as a change in policy. As discussed at length in the previous section, intelligence data noting shipments of Iranian arms were distributed widely in Congress.

Having that said, the Minority does not consider the "no instructions" response to be the kind of routine diplomatic exchange that need not be called to congressional attention. A number of considerations -- both singly and in combination -- suggest that the better course may have been for the Executive Branch to inform Congress of the "no instructions" response.

First, the "no instructions" response was -- and plainly understood by Executive Branch officials to be -- a matter of considerable importance. The policy was significant enough that, within the space of some seventy-two hours, it went from Ambassador Galbraith through several levels at the State Department to the Secretary of State and the National Security Adviser and, ultimately, to the President himself. This close attention to the matter within the State Department and the National Security Council was no doubt warranted: the answer to President Tujman's question had a significant impact on the status of the Muslim-Croat Federation, the survival of the Bosnian government, and U.S. relations with its closest European allies.

Second, notification would have been of particular importance because the "no instructions" response was clearly relevant to a contentious issue being debated in Congress at the time. The question whether to lift or modify the embargo on arms shipments to Bosnia was a matter of intense and continuing discussion through the spring and summer of 1994. Disclosure of the "no instructions" response, and of the policy considerations that underlay the United States decision, would have been appropriate. At a minimum, notification likely would have led to more informed decision-making by Members of Congress.

Third, and perhaps most fundamentally, although the possible adverse reaction by U.S. allies gave Executive Branch officials good reason to keep the Tujman-Galbraith exchange closely held, the Administration could have struck a more reasonable balance between the desire to minimize the risk of leaks and the wisdom of informing key Members of Congress. The Administration would have been wise to consider the comments made in response to the argument that covert actions are too sensitive to disclose to the intelligence community or to the congressional leadership:

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In the final analysis, it's a question of balance. We must balance the harm that may result from the disclosure of a secret against the value of consultation and independent advice for the President prior to the initiation of a covert action. Have not the events of recent years shown us that the President needs that kind of advice in all circumstances? When covert actions are contemplated that will have profound effects on our security interests, the balance, in our democracy, must be struck in favor of prior consultation. I think the long run it will serve us best.³³

The issue before the Select Subcommittee does not involve a covert action, but the same need for balance applies. Indeed, had Congress been notified of the "no instructions" response in a timely fashion, much of the suspicion and skepticism that prompted the current investigation might have been prevented.

The "No Instructions" Response did not Violate International Law.

The remaining area of legal inquiry involves the United States' international obligations. On this score, the decision not to affirmatively enforce the embargo against third countries -- a decision embodied both in the no-instructions policy and in the Nunn-Mitchell legislation -- did not violate international law.

The United States' legal obligations concerning the arms embargo were set out in a series of United Nations resolutions. U.N. Security Council Resolution 713, which imposed the embargo, plainly was mandatory. It provided that the Security Council:

Decides, under Chapter VII of the Charter of the United Nations, that all states shall, for purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugo-

³³ H.R. Rep. No. 705, *supra*, at 14-15, quoting Statement of Rep. Hamilton, Feb. 24, 1988, Subcommittee on Legislation, Permanent Select Committee on Intelligence, pp. 5, 6, and 7.

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slavia until the Security Council decides otherwise following consultation between the Secretary-General and the Government of Yugoslavia."

In contrast, the other embargo-related resolutions, which addressed enforcement of the embargo, were quite different in form. U.N. Security Council Resolution 787 authorized, but did not require, U.N. member states to take steps to enforce the arms embargo established in earlier resolutions. It provided:

The Security Council, * * * [a]cting under Chapters VII and VIII of the Charter of the United Nations, calls upon States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as may be necessary under authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of Resolutions 713 (1991) and 757 (1992).³⁸

Similarly, U.N. Security Council Resolution 740 "[c]alls upon all States to cooperate fully with the [sanctions] Committee * * *, including reporting any information brought to their attention concerning violations of the embargo."³⁹

Resolutions 787 and 740 do not have the force of international legal obligations. While some resolutions of the Security Council are binding on member states -- under Article 25 of the U.N. Charter (emphasis added), "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter" -- it is quite

clear that not all resolutions of the Security Council impose mandatory obligations.⁴⁰ Some resolutions are not "decisions," others may not be made "in accordance with the [] Charter," and many simply are not intended to be binding.⁴¹

In determining their legal status, it is useful to contrast Resolutions 787 and 740 with Resolution 713, which established the embargo. The text of Resolution 713 displays every element necessary to come within the mandatory terms of Article 25: it uses the express language of "decision" as the operative verb; it identifies the source of the Council's power to act (Chapter VII, which contemplates decisions, as opposed to the non-binding recommendations authorized under Chapter VIII; it uses language of direction ("shall"), exhibiting an intent to bind member states; and it is directed at "all states."⁴² Violations of its mandate to implement an arms embargo necessarily are violations of a member state's treaty obligations under the Charter, and thus are inconsistent with international law.

³⁸ Scholars, judges, and diplomats agree that the reach of Article 25 remains unsettled, both in theory and in practice. See, e.g., Bruno Simma (ed.), *The Charter of the United Nations: A Commentary*, 409 (1994) ("the scope of art. 25 is also open, since the term 'decision' [] as used in this provision cannot refer to all pronouncements of intent by the [Security Council] made under the terms of the formal voting procedure"; Renata Sommersfeld, *Resolutions of the United Nations Security Council 121-122 (1989) (noting the ambiguity of the term "decision" and citing an official U.N. publication noting that the article had not been subject to much debate or clarification).*

³⁹ See, e.g., Bruno Simma (ed.), *The Charter of the United Nations: A Commentary* 409 (1994) ("the notion of 'decision' within the terminology of the Charter is not unambiguous"); Oscar Schachter, *United Nations Law in the Gulf Conflict*, 85 Am. J. Int'l L. 452, 463 n.31 (1991) (referring to "[t]he important distinction between binding and nonbinding decisions"); See also Craig Scott, et al., *A Memorial for Bosnia*, 16 Mich. J. Int'l L. 1, 126 (1994) ("Clearly, Article 25 does not operate so as to make all Security Council decisions binding").

⁴⁰ U.N. Security Council Resolution 713.

³⁸ Resolution 757 is similar to Resolution 713, setting out in detail the obligations of member states to implement sanctions against the remaining Federal Republic of Yugoslavia.

³⁹ See U.N. Security Council Resolution 787.

⁴⁰ See U.N. Security Council Resolution 740.

Resolution 787 differs in significant ways. Its operative verb ("calls upon") reflects exhortation rather than decision, and there is no language directing members to perform particular acts.⁴⁰ The scope of the request is deliberately ambiguous, referring to "such measures commensurate with the specific circumstances as may be necessary."⁴¹ By necessity the resolution's request applies not to all states, but only to those with the ability to halt shipping and to ensure implementation of the embargo. Resolution 787 thus cannot be understood to impose an affirmative, binding obligation.

Resolution 740 bears even fewer hallmarks of a binding "decision." It merely "calls upon" states to "cooperate" with the sanctions committee.⁴² The honorific operative verbal phrase, as well as the discretionary element (seeking generalized "cooperation"),⁴³ emphasize that this resolution is of a wholly different character than Resolution 713.

The intent of the Security Council — determined by reference to the language and effect of a resolution — often determines whether a resolution is binding.⁴⁴ The language discussed above demonstrates that the Security Council (in Resolution 713, for example) knows how to make a forceful, binding decision subject to Article 25 of the Charter. The fact that the roughly

⁴⁰ U.N. Security Council Resolution 787.

⁴¹ *Id.*

⁴² U.N. Security Council Resolution 740.

⁴³ *Id.*

⁴⁴ See Shimma, *Charter* at 413; see also *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (Advisory Opinion)*, 1971 I.C.J. 16, 53 (1970) ("The language of a resolution of the Security Council should be carefully analyzed before a conclusion can be made as to its binding effect").

contemporaneous language of Resolutions 787 and 740 differs from that of Resolution 713 in important ways demonstrates that the Security Council did not intend those resolutions to have the same binding effect.

Comparing Resolutions 787 and 740 with other recent resolutions confirms that they should not be construed as imposing international legal obligations. The closest parallel to the resolutions concerning the former Yugoslavia are those addressing Iraq's invasion of Kuwait, which provide the only other recent example of the Council's systematic use of its Chapter VII authority to adopt binding decisions.⁴⁵ Notably, the Yugoslavia resolutions parallel the resolutions in significant part. Resolution 661 (using the term "Decides" and mandatory language similar to that in Resolution 713) imposed obligations on member states to effect an embargo on Iraq and occupied Kuwait.⁴⁶ Resolution 665 (in which the Council used "Calls upon" as the operative verb and adopted language virtually identical to that used in Resolution 787) authorized certain states to use additional measures to enforce the embargo.⁴⁷

⁴⁵ Together, these two instances represent a significant departure from the Security Council's prior practice, which had been largely hamstringed by superpower conflict. See Shimma, *Charter* at 416 (1994) ("The first case in which the [Security Council] took a whole series of binding decisions under Chapter VII relates to the Iraqi invasion of Kuwait"); *Id.* at 418 (noting resolutions concerning Yugoslavia and Somalia); see also Oscar Schachter and Christopher C. Joyner (eds.), *United Nations Legal Order 62* (1995) ("Because of the substantial paralysis of the Security Council throughout the Cold War years, that is, during most of the Council's existence, the full extent of the Council's powers has not yet been explored").

⁴⁶ U.N. Security Council Resolution 661.

⁴⁷ Resolution 665 provides: "[t]he Security Council . . . Calls upon those member states cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify (continued...)

The Security Council resolutions concerning the Persian Gulf crisis have been closely scrutinized in recent years. The authorities agree that Resolution 665 (and, by extension, Resolution 787) was merely an authorizing resolution, not a mandatory one. It "plainly cannot be construed as imposing any binding obligation on the United States."⁴¹ One scholar explained the point in detail:

At first blush, this resolution [665] may appear to be a decision of the Security Council obliging the United States to use armed force. But close analysis reveals that it is not. . . . Neither this resolution nor any previous Security Council resolution requires any member state to deploy maritime forces to the area. . . . Even if a state becomes subject to the resolution by taking that action, it retains full discretion to determine which measures, if any, are "commensurate to the specific circumstances," and whether they are in fact "necessary."⁴²

⁴¹ (..continued)
their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)."

⁴² Michael J. Glennon, *The Constitution and Chapter VII of the United Nations Charter*, 85 Am. J. Int'l L. 74, 82 (1991).

⁴³ Glennon, 85 Am. J. Int'l L. at 82. See also Alyssa Pynch, *Rearm Development: United Nations Authorizations of Use of Force*, 32 Harv. Int'l L.J. 265, 267 (1991) (Resolution 665 "authorizes states with forces in the region" to use forcible measures); Christopher John Sabec, Note, *The Security Council Coerces of Age: An Analysis of the International Legal Response to the Iraqi Invasion of Kuwait*, 21 Ga. J. Int'l & Comp. L. 63, 72 (1991) (Resolution 665 "authorized military action to halt maritime trade with Iraq").

This understanding of the effect of Resolution 665 (and, by extension, Resolution 787) is consistent with the Security Council's permissive (non-binding) authority over military efforts. "A request to use military force in the absence of any special agreement (under Article 43) is not legally binding." Matthew D. Berger, Note, *Implementing a United Nations Security Council Resolution: The President's Power to Use Force Without the Authorization of Congress*, 15 *Hastings Int'l & Comp. L. Rev.* 83, 93 (1991). See also Schachter & Joyner, *United Nations Legal Order at 281*. In the two instances in which the Council expressly authorized military action (Korea and Kuwait), it did not oblige member states to participate, but merely permitted the action. See Eugene V. Rosow, *Can't We Do? Enforcement Action or Collective Self-Defense?*, 85 Am. J. Int'l L. 506, 508-509 (continued..)

The clear conclusion, then, is that the resolutions calling upon member states to aid in enforcing the embargo were hortatory. As a consequence, the "no instructions" response .. in which the United States decided not to take affirmative steps to prevent a violation of the embargo -- was consistent with the United States obligations under international law.

⁴⁴ (..continued)
Resolutions 665 and 787), it did not impose any binding obligation on states to take enforcement action, nor would it have authority under the Charter to purport to do so. Thus, even if the Security Council clearly stated its intention to act under Article 25 in a resolution such as 665 or 787, the obligation by its terms would not apply because the "decision" of the Council would not be "in accordance with the [U] Charter."

THE NO INSTRUCTIONS RESPONSE OF APRIL 1994

At the heart of the Select Subcommittee investigation are the conversations among Ambassador Peter Galbraith, Special Envoy Charles Redman and Croatian President Franjo Tudjman. President Tudjman asked what the United States reaction would be to the transshipment of arms through Croatia to Bosnia, and the Ambassador and the Special Envoy replied that they had been given "no instructions" on how to respond. The Minority believes that the detailed account that follows is the most accurate exposition of the meeting between President Tudjman and these two diplomats and of the events leading up to, and following, the meeting. This account not only establishes the care with which the instructions were implemented, but also puts into perspective the minor inconsistencies that occur in any retelling of events by witnesses more than two years after they occurred.

As discussed in the previous Chapter, the Clinton Administration weighed several options before determining that the "no instructions" response to the Croatian inquiry about arms shipments to Bosnia would be the most tenable. The policy makers in Washington and the implementors of that policy in the region carefully considered three options before agreeing on the United States response to Croatia. The testimony of the participants and the written record of events make it absolutely clear that neither the response nor the events prior or subsequent to the delivery of the response were a rogue operation instituted by an isolated ambassador. Although the time in which the decision had to be formulated and presented was short, and top policy

makers were spread throughout the world, a successful effort was made to coordinate the response within and between the necessary agencies.

The Administration reached its decision to proceed with this response knowing that the Croatsians were likely to see it as a signal to reestablish a formal arms pipeline and that the Iranians would be the primary, although not sole, source for the weapons. The Administration carefully considered the extent to which the response would allow the Iranians more access in the region than they possessed already. The following is a detailed description of the events surrounding the formulation of the "no instructions" response and its delivery to the Croatian government.

Weeks Preceding President Tudjman's Presentation of the Question to Ambassador Galbraith.

Although the date when the Croatsians first began giving serious thought to reestablishing the arms pipeline to the Bosnians cannot be fixed exactly

[REDACTED]

By February - March 1994, hostilities

¹ On April 27, 1994, Secretary of State Christopher was traveling in the Middle East. President Clinton, Anthony Lake, and Strobe Talbott were traveling to California for the Nixon funeral.

² Select Subcommittee Deposition of Strobe Talbott, Sept. 5, 1996, at 45 (hereinafter "Talbott Subcommittee Dep.").

[REDACTED]

had ceased, and the Croatian and Bosnian governments had agreed to a new Federation negotiated by the United States and adopted in March 1994 ("The Federation Agreement").⁷ The success of the Federation Agreement not only meant a cessation of the needless humanitarian suffering, but also represented the beginning of a new military alliance more capable of resisting ~~Serb forces.~~

With the diminishing tension between the two countries, the Bosnian government approached the Croats regarding the reestablishment of the formal arms pipeline. Iran, which already was committed to the Bosnian cause, recognized that the Federation represented an opportunity to enhance its status as Bosnia's most important friend within the Islamic world.⁷

[REDACTED]

⁷ For an extensive discussion of the Federation agreements, see Chapter One, Section Two.

⁸ In his testimony before the House Permanent Select Committee on Intelligence, Ambassador Galbraith explained that during the Muslim-Croat war it was extremely difficult to get weapons into Bosnia. House Permanent Subcommittee on Intelligence Deposition of Peter W. Galbraith, May 30, 1996, at 24 (hereinafter "Galbraith HPSCI Dep."); United States diplomacy in the region was therefore aimed at ending the war and solidifying a military alliance that could bolster the Bosnian Muslims' resistance to the Serbs. *Id.* See also, Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 40 (explaining that after the battle in Mostar on May 7, 1993, it would have been inconceivable for any Croat national to advocate supplying arms from any source to the Muslims) (hereinafter "Neitzke Subcommittee Dep. 7").

[REDACTED]

The Croats were receptive to the Iranian proposal to resume the arms pipeline to Bosnia well before the April 28 meeting between Tudjman and Ambassador Galbraith. The intelligence also establishes that Iran, Croatia, and Bosnia independently discussed arms shipments well before Croatian officials approached United States officials and the question was posed formally to Ambassador Galbraith.

The Question Is Posed to Embassy Zagreb Personnel.

In fact, the first inquiries from Croatian officials about the United States position on such shipments [REDACTED]

According to cables from Embassy Zagreb, on April 18, 1994, Charles Redman, the United States Special Envoy on former Yugoslavia, met with Croatian Foreign Minister Mate

[REDACTED]

Granic.¹⁰

Special Envoy Redman.¹¹

Apparently, Foreign Minister Granic was too subtle in his presentation of the issue to

The [redacted] learned from his [redacted]

¹⁰ Apr. 20, 1994. Although the [redacted] and the Deputy Chief of Mission ("DCM") both reported this meeting through their channels, Special Envoy Redman was unable to recall this meeting specifically. See Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 30, 31 ("I returned to Washington on the 19th... I just don't know if I saw [Granic] on the way out." Hereinafter "Redman Subcommittee Dep.," [redacted])

¹¹ Galbraith Subcommittee Dep. at 20. Despite the fact that he had drafted both reporting cables, the DCM does not recall having known of this meeting in April 1994. Neitzke Subcommittee Dep. at 152-53. According to him, his first awareness that the Croatians were seeking a United States policy statement was in a meeting with Foreign Minister Granic on April 27, 1994. Id. at 153.

¹² Id.

¹³ Id.

¹⁴ had the Foreign Minister was expected to, but did not, ask Special Envoy Redman whether the United States is prepared to pressure Bosnia Herzegovina to stop asking Croatia to transship [weapons].¹⁵ Granic therefore failed to elicit a formal reply from the United States or indicate in any way that the Croatians were seeking an explicit response concerning the United States position on the resumption of the arms pipeline.

This seemingly inconsistent position reflects the division within the Croatian government about the issue of the arms pipeline.

There were some within the government, Matic Granic and Miro Tujman among them, who disagreed with this policy.

However, even among the dissenters, the objections to the transshipments varied. For example, Foreign Minister Granic was concerned about the pipeline's effect on the peace process,¹⁶ whereas Miro Tujman wanted to minimize Iranian involvement.¹⁷ Miro Tujman attempted to

[redacted]

¹⁴ Department of State Cable, Zagreb 1567, Apr. 19, 1994.

¹⁵ Subcommittee Dep. at 11-12.

advance this position when he exploited his [REDACTED]

The reality of the situation was, however, that President Franjo Tudjman retained

ultimate authority over the decision, and he apparently had agreed to the transfer of arms via Croatian territory.²¹ The only remaining issue for the Croatians was what effect, if any, this decision would have on relations with the United States; that was the real reason for posing the question to United States officials.²²

The Deputy Chief of Mission ("DCM") reported both the meeting between the foreign minister and the Special Envoy and the [REDACTED]

[REDACTED] and explained that the question of arms to the Bosnians was in

²¹ Department of State Cable Zagreb 1597, Apr. 21, 1994, at 1 (hereinafter "Zagreb 1597").

²² Subcommittee Dep. at 136. The [REDACTED] explained that Tudjman was a very strong leader who would make the decision regarding the resumption of the formal arms pipeline on his own. *Id.*

²³ See Galbraith Subcommittee Dep. at 6-8 (commenting on what type of response the Croatians were seeking from the United States).

²⁴ The first of these cables was dated April 19, 1994, and the second April 21, 1994. Although both these cables report on the meeting Special Envoy Redman had with Foreign Minister Grant, DCM Neitzke noted in the cable that Special Envoy Redman had not reviewed them.

the fore. On April 21, 1994, the DCM reported that the Croatians would certainly be looking for an official response from the United States and would cooperate providing it was in Croatia's interest to do so.²⁵ The DCM requested guidance from the Department on this matter.²⁶ These cables circulated throughout the Department of State but in the absence of a formal request by the Croatians, the formulation of a response was not initiated.²⁷ There were, however, informal discussions about the Croatian inquiries in Zagreb,²⁸ and the Department had been placed on notice that the question could arise again.²⁹

Although the [REDACTED] was concerned

appropriately about the Croatian intentions, the reporting is incomplete and misleading [REDACTED]

The failure to talk to the Special Envoy is significant in this case since the Special Envoy does not remember the meeting.³⁰

²⁵ Zagreb 1567 at 1.

²⁶ Department of State Cable Zagreb 1597, Apr. 21, 1994, at 1.

²⁷ The cable circulated within the Department of State on April 22, 1994. An electronic mail message conveys that the Department did not respond to the Croatian attempt to obtain a United States position on the matter because the request was informal. Department of State E-Mail, Apr. 22, 1994, at 1. The e-mail's author recognized the question's potential importance, however, and noted that it should not be dismissed out of hand, just tabled until more formally presented. *Id.* In his conversations with Department of State officials during the week of April 27, 1994, Ambassador Galbraith reminded them that the Department had known about this issue for several days. Galbraith Subcommittee Dep. at 20.

²⁸ Vershbow Subcommittee Dep. at 111.

²⁹ Redman Subcommittee Dep. at 30.

Second, in his cable, the [redacted] relayed a previously un-memoritized

conversation from early-March 1994 in which Ambassador Galbraith discussed with the [redacted] a possible covert action to arm the Bosnian Muslims. The assistance likely would be from Islamic countries such as Iran or Turkey, not the United States, and would traverse Croatia (the only land route to the Bosnians) without objection by the United States. ~~10~~

The [redacted] reported that he told the Ambassador during the March conversation that he was not in the position to make policy and referred the Ambassador to policy makers at the National Security Council or the Department of State to address the requisite finding and legal issues. The [redacted] also reported that he opined to the Ambassador that such an action would be a mistake, and the Ambassador remarked that he would bring the idea to National Security Advisor Anthony Lake.¹¹ The [redacted] did not memorialize this conversation at the time (in March) because he did not think it was an issue worth reporting. The [redacted] testified to the Select Subcommittee that he orally informed the Central

¹⁰ Apr. 20, 1994. In this cable, the [redacted] recounts that the Ambassador suggested that Turkey serve as the cutout point for possible arms shipments to the Bosnian Muslims from Iran. The Majority concludes that this statement is indicative of the fact that Ambassador Galbraith actually orchestrated the Croatian inquiry regarding the resumption of the arms pipeline. This line of argument is not credible. It was well known within the foreign policy and intelligence communities that the Islamic countries, particularly Turkey and Iran, were interested in helping the Bosnians. Throughout 1993, the President of Turkey made repeated contact with United States and United Nations officials to encourage either the lifting of the arms embargo against Bosnia altogether, or supplying arms to the Bosnians directly despite the embargo. See, e.g., Department of State Cable, Nov. 8, 1993. The fact that Ambassador Galbraith incorporated this well known knowledge into a discussion with the [redacted] who also should have been aware of Turkey's interest in aiding the Bosnians - is no way indicative of his having orchestrated this deal among Iran, Croatia, and Bosnia. ~~11~~

European desk officer of the conversation; but the desk officer does not remember the

conversation and did not report the conversation to anyone within the European branch. ~~12~~ In his April 20 cable, the [redacted] cited the March idea raised by the Ambassador to the comments made by Foreign Minister Granic and requested guidance from [redacted] headquarters. The [redacted] assumed that Granic's conversation was evidence that Ambassador Galbraith had proceeded with the idea he had discussed in March. In addition, the [redacted] reported on information provided by the DCI that the Special Envoy was intent on initiating an "Afghan style" operation to arm the Bosnian Muslims and circumvent the arms embargo.¹³ In subsequent testimony to the Select Subcommittee, the [redacted] testified that the Croatian inquiries caused him to wonder whether the March inquiry by the Ambassador had gone forward and a covert action proposal was under consideration.¹⁴ The [redacted] presents no factual basis for concluding that an inquiry addressed to him by the Ambassador in the sanctity of the United States embassy, if it occurred at all, is related to an inquiry addressed to the Special Envoy by the Croatian foreign minister five weeks later. ~~15~~

By stringing these conversations together in one cable, the [redacted] gave the impression that the question being raised by the Croatians was based on the earlier Galbraith inquiry. This report is a compelling example of why the [redacted] was admonished on several occasions about the quality of his reporting. That [redacted] suspicion over a theoretical discussion the ambassador allegedly had with him about finding ways to arm the

¹² Special Envoy Redman has no recollection of ever expressing such an interest during his time as Special Envoy. Redman Subcommittee Dep. at 86.

¹³ [redacted] Subcommittee Dep. at 25. ~~14~~

Bosnian Muslims was extreme. If an Ambassador must be concerned about conducting a theoretical discussion with one of the most knowledgeable people in the embassy, then the United States government will be denied a thorough airing of views and ideas. In addition, the report contains rank hearsay that amounts to little more than gossip and rumor mongering with respect to the tales told by the DCM about the Special Envoy. This reporting of such gossip and rumor about U.S. officials is not intelligence gathering and, when it contains an accusation of illegal activity, is absolutely wrong. Moreover, the [redacted] failed to consult with or corroborate any of these stories involving such U.S. officials. Finally, both the Ambassador and the Special Envoy deny the accuracy of the reports, and the DCM denies making the comment about the Special Envoy. [redacted]

On April 21, 1994, the [redacted] reported to headquarters on his conversations with [redacted] regarding the possible shipment of arms to the Bosnians.³⁴ According to the [redacted], [redacted] expressed ambivalence toward the resumption of shipments from Iran and elsewhere and asked the United States to identify any such shipments so that Croatia could interdict. The [redacted] responded that the United States enforced the arms embargo and expected others to do the same. The irony of the reporting by the [redacted] is that he appears to suspect the motives and intentions of the United States government colleagues far more than he suspects the Croats. For example, the uncritical report of the remarks by [redacted] fail to note that he is an ultra-nationalist who had strong reasons to oppose any arms for the Bosnians in order to maximize Croatian territorial

gains in Bosnia. Moreover, [redacted] regardless of his views on shipping arms to the Bosnian Muslims, had strong reasons to want United States intelligence on arms shipments in order to make certain that Croatia received its cut of all arms traversing its territory. The fact that the [redacted] fails to provide this type of intelligence assessment is surprising. [redacted]

The [redacted] reporting on April 20 and 21, 1994, alarmed his headquarters in the United States by giving the impression that an unauthorized covert action might be underway. On April 21, 1994, headquarters responded informing the [redacted] that the idea shared by the ambassador in March clearly fell within the definition of a covert action.³⁵ The reporting also led to a series of responses by [redacted] headquarters that contained wholly inaccurate legal advice by desk officers without any legal consultation or supervision. This advice was wrong, but it was relied upon by the [redacted] throughout his dealings on this matter with the Ambassador. In testimony to the Select Subcommittee, the [redacted] acknowledged that he believed United States acquiescence to the transshipment of Iranian arms through Croatia into Bosnia would be a covert action.³⁶ This incorrect legal advice ultimately led the [redacted] to conclude that the "no instructions" response suggested a covert action was

³⁴ [redacted] Such an operation would require a presidential finding and notification of Congress. (Emphasis added). [redacted] For a discussion of the elements of covert action and what activity actually necessitates a Presidential Finding, see Chapter One Section Five, supra. The Deputy Chief of Mission indicated to the Subcommittee that an issue as important as this would have prompted consultation with supervisors and covert activities specialists. Select Subcommittee Deposition of [redacted] Aug. 16, 1996, at 36 (hereinafter "Subcommittee Dep. 3"). In this instance, however, the Deputy Chief had no specific recollection of having gone to her superiors before informing the [redacted] that the Ambassador's proposal would require a finding. Id. [redacted]

underway. This miscommunication in mid-April contributed to the breakdown of communication between [redacted] headquarters and the rest of the Executive Branch. The confusion caused by this miscommunication was compounded at Embassy Zagreb by multiple conversations between the [redacted] and the DCM in which the latter offered up rumors and speculation about confusion at the Department of State, negative attitudes toward the Ambassador and the Special Envoy, and activities of various United States officials, all of which was dutifully reported by the [redacted]. The miscommunication about the "no instructions" response and surrounding events in the Balkans that occurred between the CIA and other Executive Branch agencies is discussed in more detail in Chapter Two, Section Two of the Minority Views. ~~_____~~

Contacts with the United States Defense Attache

On or about April 18, 1994, Lieutenant Colonel Richard Herrick, the United States Defense Attache to Croatia, ³⁷ met with Croatian Defense Minister Gajo Susak at the Croatian Ministry of Defense. ³⁸ The Defense Minister wanted the assistance of the United States in cleaning up the remnants of an exploded ammunition dump outside of Zagreb. ³⁹ [redacted]

³⁷ In addition to serving as the military adviser to the ambassador, the Defense Attache serves as a diplomatically recognized military observer in an accredited country. Select Subcommittee Deposition of LtCol. Richard C. Herrick, Aug. 20, 1996, at 13 (hereinafter "Herrick Subcommittee Dep.").

³⁸ Id.

³⁹ Id. at 13, 30. The Croatian request required an experienced United States military team to provide technical assistance to the Croatians on retrieval of unexploded ordnance that was lying in a Zagreb suburb. Id. at 13. Once Ambassador Galbraith learned of the matter, he contacted the Departments of State and Defense and informed them of the request. Although the Department of Defense initially was concerned that such aid would constitute military assistance in violation of the U.N. embargo, the Department of State and others determined that such assistance was not in violation of the embargo and could proceed. Id. at 30. The Department of

[redacted] Throughout its Final Report, the Majority alleges that Ambassador Galbraith was instrumental in the coordination and implementation of the arms pipeline. Given that Defense Minister Susak had been approached by so many different people over the course of one week, it is obvious that this was not an endeavor coordinated by Ambassador Galbraith, but rather a Bosnian initiative in which the Croatians and Iranians were active participants. ~~_____~~

[redacted]

State concurred with Ambassador Galbraith's conclusion that this amounted to humanitarian assistance. Id. This request for assistance is similar to a request for assistance with a missile inspection posed by the Croatians a year later which is discussed, *infra*, Chapter Two, Section Seven.

⁴⁰ Id. at 14.

[redacted]

[REDACTED]

The Susak inquiry did not surprise the Defense Attache. He knew that despite the arms embargo in place throughout the region, weapons flowed to the warring parties.⁴⁸ The Defense Attache informed the DCM of his meeting with Minister Susak upon his return to the embassy.⁴⁹ The DCM recommended that the Defense Attache forward a report of the conversation through

[REDACTED]

⁴⁸ Herrick Subcommittee Dep. at 16. Herrick noted as an example weapons he had seen in the Croatian army that could not have been part of its inventory unless weapons were streaming through the embargo. *Id.*

⁴⁹ Herrick Subcommittee Dep. at 18. The DCM was in charge of the embassy at the time the Ambassador was on travel.

his usual channels.⁵⁰ Such routine reporting would include notifying the ambassador of the exchange upon his return.

In the days following, various members of the country team in Embassy Zagreb anticipated further Croatian government queries to United States officials about the United States reaction to opening an arms pipeline to Bosnia. At no time was any member of the country team approached about United States arms being supplied, or about the United States undertaking any other action on behalf of the Bosnians. Each inquiry and approach sought only the United States reaction to arms transhipped through Croatia to Bosnia. Although the [REDACTED] did not remark on the consistency of the inquiries, they constitute firm evidence that no broader United States role was expected. The [REDACTED] learned from [REDACTED] was planning to ask Ambassador Galbraith what the United States reaction would be if Croatia allowed weapons to flow to Bosnia. The number and variety of sources within the Croatian government who raised the same question of arms shipments with U.S. government officials during the week of April 18, 1994, is additional evidence that the March discussions between the Ambassador and [REDACTED] were unrelated.

Ambassador Galbraith was traveling when the Croatian inquiries occurred, but he returned to the embassy on April 24, 1994.⁵¹ The Ambassador learned for the first time of the Croatian request for the United States reaction to arms transshipments to the Bosnians.⁵² The

⁵⁰ *Id.* at 18-19.

⁵¹ Ambassador Galbraith had attended a Chief of Mission conference in Brussels and traveled in Italy prior to returning to the embassy. Galbraith Subcommittee Dep. at 5.

DCM described the Croatian attempt to raise the issue with Special Envoy Rodman during a meeting with Foreign Minister Granic.¹¹ Based on this information from the DCM, the Ambassador decided to meet with the Croatians to understand better what was needed from the Department of State in terms of guidance.¹²

Ambassador Galbraith also met with the Defense Attache, the [redacted] and the DCM to be briefed on events that occurred while he was gone.¹³ Among other things, the four discussed the Croatian inquiries regarding the United States reaction to the resumption of a formal arms pipeline between Croatia and Bosnia.¹⁴ The discussion focused particularly upon the potential Iranian involvement in an arms pipeline.¹⁵ According to the Defense Attache, none of the participants "felt comfortable dealing with Iran."¹⁶ The Defense Attache sensed a division within the Croatian Government about dealing with Iran.¹⁷ Defense Minister Susak, for example did not favor the relationship with Iran, but he recognized that an agreement to transship Iranian

¹¹ Galbraith Subcommittee Dep. at 5.

¹² Id. Neitzke had explained to Ambassador Galbraith that Granic had not been clear in his discussions with Rodman that the Croatians were seeking a policy stance from the United States. Id.

¹³ Herrick Subcommittee Dep. at 19. [redacted] Subcommittee Dep. at 21. DCM Neitzke does not recall having been in a meeting in which the ambassador was made aware of the liaison and defense channel inquiries. Neitzke Subcommittee Dep. at 63.

¹⁴ Id.; see also [redacted] Subcommittee Dep. at 24 (describing a meeting at which he and the Defense Attache retried their individual discussions with the Croatians); [redacted]

¹⁵ Herrick Subcommittee Dep. at 23.

¹⁶ Id.

¹⁷ Id. at 15.

weapons to the Bosnians would provide weapons for Croatia.¹⁸ The [redacted] previously was aware that the [redacted] official and the foreign minister were skeptical of the plan.¹⁹ Among the four embassy officials, the [redacted] was most vocal in his opinions against Iran.²⁰ The DCM also was uncomfortable with the Iranian involvement.²¹ According to

the Defense Attache, no one really objected to the arms getting to the Muslims because each accepted that the Muslims could not defend themselves.²² Thus, each of the four was on notice that the Bosnian Muslims were receiving arms, including Iranian arms. Moreover, no one expressed the view that the United States should stop the arms flow by telling the Croatian government to resist the transshipment.²³

According to the [redacted] Ambassador Galbraith questioned the accuracy of the Defense Attache's response to Susak and asked him to arrange a meeting with the defense minister so that Susak could pose the question directly to the Ambassador.²⁴ Ambassador Galbraith wanted the question posed in the foreign policy channel rather than the defense or

¹⁸ Id. at 16. As discussed elsewhere in this report, the Croatians had transshipped weapons previously to the Bosnians prior to the outbreak of hostilities between Bosnian Muslims and Croatia. It was standard practice for the Croatians to take a minimum of twenty-five percent of the weapons for themselves.

¹⁹ Id. at 23.

²⁰ Id.; Neitzke Subcommittee Dep. at 157.

²¹ Id.

²² [redacted] Subcommittee Dep. at 24. Although LTCOL Herrick recalled the ambassador's query about his response to Susak, he does not remember ever being asked by Ambassador Galbraith to arrange a meeting with the Defense Minister so that the question could be posed to him. Herrick Subcommittee Dep. at 21. Galbraith also had met with Foreign Minister Granic upon his return. Id. Susak and Granic both indicated that in his meeting on April 28, 1994, President Tudjman would raise this question formally with the Ambassador. Id. at 6, 8. [redacted]

intelligence channels so that an authoritative foreign policy response could be formulated and communicated. The Ambassador also anticipated the question being posed by the Croatian president and wanted the Department of State to begin consideration of the request in the event the Croats posed the question again formally."

Events of April 27 and April 28, 1994.

During the period between April 27 and April 29, 1994, the United States response to the Croatian question was formulated and debated. Senior officials at the National Security Council, the Department of State, and Embassy Zagreb remained in constant communication via telephone calls, meetings, and cables. The Ambassador transmitted a cable in which he advocated a response favorable to the transshipment of arms, however, he also addressed the risks and benefits of doing so, including the likely involvement of the Iranians."

Sometime during the three days prior to April 28, 1994," Ambassador Galbraith spoke by telephone to Alexander Vershbow, the Principal Deputy Assistant Secretary for European and Canadian Affairs (the "DAS"). The Ambassador recounted what he and other embassy officials



⁶⁹ Subcommittee Dep. at 31; Neticzke Subcommittee Dep. at 64.
⁷⁰ Department of State Cable by Ambassador Galbraith, Apr. 27, 1994.

⁷¹ Vershbow maintained contemporaneous notes of his conversations regarding the Bosnian issue with Ambassador Galbraith and others. The notes, however, were not dated at the time and Vershbow subsequently added dates to his notes. The page memorializing this call has the dates 4/25, 4/26 and 4/27 written at the top to indicate when the conversation may have occurred. In a cable dated April 27, 1994, Mr. Vershbow makes reference to a conversation he had with Ambassador Galbraith on "Tuesday," so it is likely that this conversation took place on April 26, 1994.

had heard from the Croats, namely that the Croats were feeling pressure from the Iranians and Bosnians to begin supplying arms to the Bosnians. Ambassador Galbraith indicated that he had a meeting scheduled with President Tudjman and he believed President Tudjman might use the occasion to ask the United States reaction to transshipment of arms, including shipments from Iran, through Croatia to Bosnia." Ambassador Galbraith and the DAS discussed the implications of the Croats reestablishing the pipeline including the likelihood that the arms shipments would be detected by NATO and UNPROFOR forces."

Ambassador Galbraith emphasized the importance of the matter to Croatia and the United States and the need for guidance quickly. He also indicated that the guidance should come from a higher authority than the Deputy Assistant Secretary." Ambassador Galbraith informed Vershbow that the Croats would take a percentage of the weapons for themselves as payment." The Ambassador requested instructions in the form of a cable and again advocated a response that would promote the Federation.

Following the telephone call, Ambassador Galbraith sent a cable to Washington specifically addressing each of the points discussed with Vershbow and requesting immediate

⁷² Select Subcommittee Deposition of Alexander Vershbow, Aug. 8, 1996, at 14 (hereinafter "Vershbow Subcommittee Dep."); Galbraith Subcommittee Dep. at 16.

⁷³ Vershbow Subcommittee Dep. at 14-15.

⁷⁴ Id. at 15.

⁷⁵ Id. at 16. [Redacted text]

guidance. " Ambassador Galbraith again addressed the Iranian concern and noted that Croatia should be cautioned against becoming too close with Iran. " Ambassador Galbraith explained that opening the pipeline would pave the way for increased arms flows from other countries besides Iran, but that Iran - which was so eager to be seen by the world as Bosnia's savior - was in the best position to provide arms immediately. " He also reiterated his belief that blocking this arrangement between Bosnia and Croatia would be disastrous to the Federation which was absolutely critical to peace in the region.

Deputy Assistant Secretary Vreshow characterized this conversation as the correct way for "[Ambassador Galbraith] to bring an issue like this" to his attention. " Vreshow

acknowledged that the ambassador was advocating a certain position, namely that the arms should be allowed to proceed, as any ambassador would on an issue of importance. " It was an ambassador's responsibility to recommend positions to facilitate the formulation of policy in Washington. Vreshow believed that the Ambassador was providing Department officials with

⁷⁹ Department of State Cable, Apr. 27, 1994.

⁸⁰ Id. The Croatian-Iranian-Bosnian relationship was a constant subject of concern for the United States. As mentioned throughout the Minority Views, the Iranians had already established themselves in the region by April 1994 (some estimates trace Iran's presence back to 1979). Whenever the subject of Iranian involvement arose, United States officials responded that caution should be used and reminded the Croats and Bosnians that if they aligned themselves with the west, strong relations with Iran would not be tolerated. United States officials recognize, however, that most European countries maintain diplomatic ties with Iran and that Bosnia, as a European country with a largely Muslim population, was unlikely to sever all ties to Iran, so they consistently encouraged the Bosnians to temper their dealings.

⁸¹ Id.

⁸² Vreshow Subcommittee Dep. at 17.

⁸³ Id. at 54.

as much information in advance so that they could make a decision promptly before his meeting with President Tudjman. "

Deputy Assistant Secretary Vreshow Discusses the Matter with the Undersecretary:

Following his conversation with Ambassador Galbraith, Vreshow met with

Undersecretary for Political Affairs Peter Tamoff ("the Undersecretary"), " the principal person overseeing the Bosnian issue for the Department. This meeting concerned a variety of issues relating to Bosnia. " Undersecretary Tamoff informed the DAS that Thomas Donilon, the Chief of Staff for the Secretary of State, had sent a message from Secretary Christopher encouraging a "quick response" to Ambassador Galbraith's query. " The Secretary did not believe that the meeting with President Tudjman should be an "artificial" deadline for the United States to formulate a response, " however, if a response would be required he did not want the

⁸⁴ Id. at 17-18.

⁸⁵ Ambassador Galbraith attempted to contact Tamoff directly by telephone prior to the Vreshow meeting but was unsuccessful. Tamoff Subcommittee Dep. at 30.

⁸⁶ Vreshow Subcommittee Dep. at 18.

⁸⁷ Id. at 27. Tamoff Subcommittee Dep. at 6. According to Vreshow, Secretary of State Christopher was traveling during this time and Donilon would have been accompanying him. The fact that Donilon had sent a message about this issue suggested to Vreshow that Ambassador Galbraith's cable of April 27 had been received by at least some in the Department prior to his meeting with Tamoff. Id. at 27. Donilon could not recall the exact conversation memorialized in Vreshow's notes although he did not dispute the accuracy of the quote attributed to him. Select Subcommittee Deposition of Thomas Donilon, Sept. 12, 1996, at 15-16 (hereinafter "Donilon Subcommittee Dep. ").

⁸⁸ According to a cable transmitted to Ambassador Galbraith by Vreshow on April 27, 1994, the Secretary had expressed his view that the United States not respond to such an important inquiry according to someone else's - in this case President Tudjman's - timetable. Vreshow explained that as of April 27, the Department had no guidance for Ambassador Galbraith on the Croatian inquiry. This cable, which in subsequent testimony neither Vreshow

Ambassador to be left without a response and he wanted that response carefully formulated and communicated."

Administration officials were aware that arms had been and were continuing to reach the Bosnian Muslims despite the arms embargo. The import of the question being posed to Ambassador Galbraith, therefore, was not whether Croatia should send arms in a formal way, but rather how the United States would react to such shipments.¹¹ Tarnoff and Donilon had discussed already the issue of how to respond to President Tudjman's second request for the United States position on the arms shipments,¹² and were aware that Iran was a likely arms supplier.¹³ Donilon and Tarnoff relayed this information to the Secretary personally.¹⁴

Deputy Assistant Secretary Vershov's contemporaneous notes contain reference to a second phone call, probably initiated by Ambassador Galbraith, on April 27, 1994.¹⁵ In this conversation, Ambassador Galbraith informed Vershov that his meeting with President Tudjman had been scheduled for 11:30 a.m. the following day.¹⁶ Ambassador Galbraith also continued to discuss with Vershov the United States reaction to arms shipments through Croatia.

Ambassador Galbraith expected a formal request by President Tudjman on the United States reaction to arms being sent through Croatia to the Muslims.¹⁷ Reference also was made in

¹¹ Tarnoff Subcommittee Dep. at 11.

¹² Donilon Subcommittee Dep. at 11.

¹³ Id. at 16. Donilon concurred with others involved in formulating this policy: that the issue of Iran was cause for serious consideration and debate and likely was the reason it took so long to respond to Ambassador Galbraith's request for guidance. Id. Donilon explained that the Secretary also was deeply concerned "on an ongoing basis about the Iranian presence in the Balkans." Id.

¹⁴ Id. at 12-13; Tarnoff Dep. at 10. When Tarnoff learned of this issue, he maintained close contact with Deputy National Security Advisor Sandy Berger, and the Secretary because he believed that it was a timely and sensitive issue. Tarnoff Dep. at 10.

Vershov recalled that there was no other discussion about the Galbraith cable as everyone present generally seemed to be aware of its contents.

Vershov and Tarnoff concluded the meeting after discussing other matters related to Bosnia. Although the Croatian inquiry was a highly sensitive matter, the need to address so many other significant issues concerning the region limited the amount of time devoted to the response at this meeting. Throughout the day, however, Administration officials continued to discuss the options available to them and to shape a response to the impending question.¹⁸

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¹⁸ Vershov Dep. at 28-30. Undersecretary Tarnoff recalled that he received the cable from Ambassador Galbraith almost immediately after it arrived and he was aware that Vershov and others had seen it also. Tarnoff Subcommittee Dep. at 10.

¹⁹ See, e.g., Tarnoff Subcommittee Dep. at 30-31 (noting that simultaneous discussions were occurring within the NSC, the Department, and aboard Air Force One about this issue).

²⁰ Contemporaneous Notes of Alexander Vershov, Department of State.

²¹ Id.

²² Vershov Subcommittee Dep. at 32.

Vershbow's notes to a lunch between Galbraith and Minister Susak which probably provided the basis for the additional information he shared with Vershbow during this second conversation. During this conversation, Ambassador Galbraith informed Vershbow that the Croatian Prime Minister was scheduled to visit Tehran on April 29, 1994, for the express purpose of discussing arms shipments.¹⁴ According to Galbraith, the Iranians felt there was "nothing to discuss; if Croatia would not act as a channel."¹⁵ The scheduled visit suggests strongly, therefore, that the Croatian Prime Minister fully intended to agree to arms transshipments.¹⁶ Otherwise, he would have had no reason to travel to Tehran.

Ambassador Galbraith also told the DAS that the arms would arrive via Boeing 747 aircraft and reiterated the Croatian intention to take a cut of probably fifty percent.¹⁷ The

¹⁴ *Id.* Although Vershbow did not recollect whether or not the lunch had occurred by the time of this second conversation, it is likely that it had. Galbraith had met with Susak in order to ascertain what it was the Croatsians were seeking from the United States. Galbraith Subcommittee Dep. at 8.

¹⁵ Vershbow Subcommittee Dep. at 32; Galbraith Subcommittee Dep. at 9.

¹⁶ *Id.*

¹⁷ This is also indicative of why resumption of the pipeline was so important to the success of the Federation. Croatia already had agreed to allow arms to transit its territory and for reasons of its own was seeking to ensure the United States would not object. If the United States pressured the Croatsians not to resume the arms flows, Bosnia would have been betrayed by her alleged new ally and the Federation would have faltered. This is why a carefully crafted response that ensured absolutely no action on the part of the United States was so important and why the "no instructions" response was ultimately conveyed and was successful in maintaining United States and Croatian/Bosnian interests in the region.

¹⁸ Deputy Assistant Secretary Vershbow's Contemporaneous Notes, Department of State. Ambassador Galbraith does not recall the specifics of this conversation but explained that his primary focus was on the political decision that had to be made by the Department. Galbraith Subcommittee Dep. at 16.

Majority states that this is clear evidence that Ambassador Galbraith was an active participant in, if not the originator of, the entire arms pipeline deal.¹⁹ Actually, this statement confirms what officials at Embassy Zagreb already understood: the Croatsians had agreed to the resumption of the arms pipeline which they believed was highly beneficial to them,²⁰ and were seeking added support for that decision from the United States. Furthermore, this is exactly the same method employed by the Iranians and Croatsians prior to May 1993 for funneling arms to the Bosnians.²¹ Given the wide distribution of this information and its availability to anyone having any responsibility for monitoring the Balkan issue, it is difficult to understand how the Majority could possibly presume that this is indicative of Ambassador Galbraith's active participation in the agreement to reestablish the formal arms pipeline.²²

¹⁹ Majority Report at 92-93.

²⁰ Intelligence and military analysis suggests that not only did the pipeline provide additional weapons for Croatian stockpiles, but by enabling the Bosnians to defend and maintain territory against the Serbs, the Croatsians could concentrate their efforts on recapturing Croatian territory still held by the Serbs.

²¹ There is a vast amount of intelligence that discusses the ~~arms shipments that was well known to the foreign policy and intelligence communities prior to April 1994. Given the terrain in the region and the strong enforcement of the embargo by Operation Sharp Guard participants, cargo flights were the only way to get arms to the Bosnians. Furthermore, Boeing 747s are commonly used cargo planes. The only significance of the use of 747s is that they are incapable of ferrying heavy weapons so this is indicative of the fact that the Bosnians only were being supplied with small arms by the Iranians.~~

²² The Majority also makes note of the fact that no one within the Administration questioned what type or quantity of arms would be shipped to the Bosnians. The fact is Ambassador Galbraith in effect told the DAS exactly what type of arms would be arriving, small arms. If the arms supply was to resume via air shipments from Iran, the only arms that could be delivered would have been light weapons, ammunition, and raw materials, all of which had been shipped previously beginning in 1992. The Administration and intelligence officials had no need to request the specific information from the Croatsians because they already had it.

As in their previous discussion, Galbraith addressed the down sides of the decision,

including the Iranian factor, for the Bosnians, Croatsians, and the United States.¹⁰⁸ Ambassador Galbraith and the DAS discussed the different options and agreed that the same type of non-responsive response would be the most appropriate.¹⁰⁹ The Ambassador expressed concern about how a "no instructions" response would be interpreted by the Croatsians. In both the April 27 cable and his discussions with Vershbow, Ambassador Galbraith suggested that the Croatsians would take a "no instructions" response literally and postpone any decision until they heard from the United States differently.¹¹⁰

Ambassador Galbraith suggested conveying a more clear response to President Tudjman than "no instructions" which would give the impression that a further response was forthcoming.¹¹¹

¹⁰⁸ See Vershbow Subcommittee Dep. at 32-37. In his April 27, 1994 cable, Ambassador Galbraith also warned that Croatia should be cautioned against building too strong a relationship with Iran.

¹⁰⁹ Id. at 36-38. Vershbow explained that this option clearly was the best because it provided a way to "shore up" and maintain the Federation, which was the focus of United States diplomacy in the region at the time. Id. at 39-40. As a result of that focus, it was implicitly understood that a neutral stance "would likely lead to the opening of the arms flow." Id. at 40.

¹¹⁰ Galbraith April 27, 1994 Cable at 1; Vershbow Subcommittee Dep. at 40.

¹¹¹ Vershbow Subcommittee Dep. at 40. [redacted] that the Iranians were in the best position to provide arms on a continuous basis immediately. Once the pipeline had been reestablished by the Croatsians, arms shipments from other countries such as Turkey and Malaysia could proceed in earnest.

¹¹² Id. at 40-41. Although "no instructions" is an understood term within diplomatic parlance, Ambassador Galbraith recognized that President Tudjman may not possess the diplomatic know/ledge to understand the nuance of the response. President Tudjman was an academic by background and, while a capable president, had not been on the international scene for many years. Ambassador Galbraith had hoped to convey a response with the same

During this conversation, Ambassador Galbraith intimated that the resumption of an arms pipeline would appeal to the members of Congress in favor of lifting the arms embargo.¹¹³ The Ambassador and Vershbow also discussed the implications of a United States role in the Croatian decision to supply arms. Ambassador Galbraith and Vershbow concurred that while United Nations Security Resolution 713 called on states to comply with the arms embargo, it did not require enforcement of the embargo against other countries.¹¹⁴ Ambassador Galbraith reiterated the importance of making a decision¹¹⁵ on this matter so that he would arrive at the meeting with President Tudjman with guidance.¹¹⁶ Vershbow ended the conversation by

connotation as no instructions, but one that would be more easily understood by the Croatian president.

¹¹³ Id. at 42. Throughout 1994 and 1995, Congress attempted to enact legislation that would lift the embargo on the Bosnian Muslims. There was consensus both in the Administration and Congress that the arms embargo was punishing the Bosnian Muslims unfairly. For a detailed examination of congressional involvement in the Balkan conflict, see Chapter One, Sections Three and Four (detailing congressional initiatives and knowledge throughout the Balkan conflict). According to Vershbow's contemporaneous notes, Ambassador Galbraith believed that Congress would see the resumption of arms as a positive step toward helping the Bosnians. Vershbow Subcommittee Dep. at 42-43.

¹¹⁴ See U.N. Security Council Res. 713, Sept. 25, 1991; Vershbow Subcommittee Dep. at 45-46.

¹¹⁵ Vershbow Subcommittee Dep. at 48.

¹¹⁶ Id. Ambassador Galbraith was aware that there were differing opinions on resumption of the pipeline within the Croatian government. As Foreign Minister Granic had intimated in discussions with Special Envoy Redman, and as the intelligence liaison had indicated, some were opposed to the shipment of arms, particularly those from Iran. Others such as Minister Susak approved of the arms shipments primarily because they would increase Croatian stockpiles. Ambassador Galbraith and the DAS believed however, that the ultimate decision would be made by President Tudjman alone. See Id. at 51.

assuring Ambassador Galbraith that the Department was working on the matter and that he would have the necessary guidance."¹⁰⁸

Ambassador Galbraith Consults with His [redacted]

At the end of the day on April 27, Ambassador Galbraith met with the [redacted] to discuss the [redacted] response to [redacted] question about the United States reaction to the transshipment of arms through Croatia.¹⁰⁹ Like the Defense Attache's response to a similar question posed by Minister Susak, the [redacted] [redacted] what he believed was the United States policy on the arms embargo.¹¹⁰

Possessed with the knowledge learned from Vershbow that new guidance was imminent and concerned that the [redacted] and Defense Attache responses to the Croatian inquiries within their respective channels may have been incorrect, the Ambassador instructed the [redacted] to indicate that the United States policy was under review. If the issue were raised again by [redacted] or better still to refer [redacted] to the Ambassador. Of course the source of the Ambassador's concern was not only that an incorrect policy had been transmitted,

¹⁰⁸ Id. at 61. Vershbow did not, however, inform Galbraith that such guidance would be in writing. Id.

¹⁰⁹ Galbraith Subcommittee Dep. at 10 [redacted]

¹¹⁰ Id.

¹¹¹ Id.

but the fact that the [redacted] had used the intelligence channel to transmit policy without first consulting with him."¹¹²

The [redacted] refused the Ambassador's request on the grounds that the response the Ambassador hoped to provide first required a presidential finding¹¹³ and specific instructions from "Washington, D.C."¹¹⁴ The [redacted] agreed that all policy-related questions should be addressed to the Ambassador.¹¹⁵ There is no indication, however, that the [redacted] acted upon the Ambassador's request to have [redacted] call the Ambassador directly, although the [redacted] continued to discuss the United States reaction and its results with [redacted] throughout the spring and summer of 1994.

The conduct of the [redacted] created special difficulties for the United States policy makers in general and the Ambassador in particular. The [redacted] already had used the [redacted] to communicate what he believed to be United States policy. The communication was soon proven to be incorrect, but the [redacted] now refused to

¹¹² In the wake of Iran-contra, use of the intelligence channels to transmit policy generally is discouraged by the CIA. Woolsey HPS/CI Dep. at 15. If a special relationship exists between [redacted] which places him in a better position than the Ambassador to transmit policy effectively to the government, the channel may be used. Select Subcommittee Deposition of Janet Anders, Sept. 30, 1994, at 24 (hereinafter "Anders Subcommittee Dep."). The transmission of policy always is at the discretion of the Ambassador. Id.

¹¹³ For a discussion of presidential findings, see supra Chapter One, Section Five.

¹¹⁴ [redacted] Subcommittee Dep. at 10 [redacted] April 28, 1994. [redacted] Subcommittee Dep. at 25. [redacted] had informed the [redacted] on April 28, 1994 that the "question of Croatian assistance in the circumvention of the embargo in exchange for a cut has come to the fore" in light of Redman's meeting with Granite on April 18, 1994. [redacted] April 20, 1994.

¹¹⁵ [redacted] Subcommittee Dep. at 25. Id. at 26-27. [redacted]

communicate the correct information. Moreover, the fact that [redacted] created a particularly high probability that the President would be confused if a response different than the one given [redacted] was communicated directly to him. This is precisely what occurred. Ironically, as a consequence of this conversation with the Ambassador, the [redacted] began to report more aggressively on the conversations he had with, or were related to him by, United States embassy personnel about the issue of arms delivered through Croatia to Bosnia.¹¹⁷

Policy Makers Debate and Formulate a Response to the Croatian Inquiry:
Air Force One Discussions.

On April 27, 1994, President Clinton, National Security Advisor Anthony Lake, and Deputy Secretary Strobe Talbott (the "Deputy Secretary") traveled to California aboard Air Force One for the funeral services of former President Richard M. Nixon. During the trip, Talbott and Lake discussed Ambassador Galbraith's impending question from the Croatians¹¹⁸ as well as the various options available to respond to this request.¹¹⁹ Deputy Secretary Talbott

¹¹⁷ [redacted] Subcommittee Dep. at 26-27. [redacted]
¹¹⁸ Talbott Subcommittee Dep. at 30.

¹¹⁹ Id. There were three options considered seriously for the response to President Tudjman. The first option was to approve the shipments outright. Such action would be known to our allies who were opposed to the lifting of the embargo and could be seen by the Serbs as the United States declaring alliance with the Bosnian Muslims. The second option would be to inform President Tudjman that the United States opposed the shipments. As Ambassador Galbraith suggested, such a position could lead to the breakdown of the Federation and the further military strangulation of the Bosnian Muslims. The final option was to inform President Tudjman that the ambassador had "no instructions" thus allowing the Croatians to pursue the proposal while not offending the allies. For a detailed analysis of the available policy options, see *supra* Chapter One, Sections Three and Four.

and Lake, as well as the other policy makers involved, reached a consensus that the "no instructions" response was the best option available to the United States.¹²⁰ Talbott and Lake knew that the Iranian presence already was established in the region because of the ongoing hostilities and that the only way to remove them would be through establishing peace. The continuation of the Federation and the establishment of some military balance among the warring factions was essential to that peace.

Reestablishing the pipeline likely would accomplish the latter two requirements; therefore, the United States accepted the Iranian presence as a necessary risk.¹²⁰ In reaching this decision, the policy makers carefully considered the Iranian factor when weighing the available options and clearly realized that an increased Iranian presence was a drawback to this option.¹²¹ The "no instructions" response, however, represented what the National Security Advisor and the Deputy Secretary believed to be the best of the imperfect options available to the United States.

The "no instructions" response did not reflect a change in the United States policy toward the embargo; the Clinton Administration vehemently opposed the application of the embargo on the Bosnian Muslims and had taken only minimal steps to enforce the embargo against them.¹²²

¹²⁰ Tamoff Subcommittee Dep. at 8.

¹²¹ Talbott Subcommittee Dep. at 34-35. See also Tamoff Subcommittee Dep. at 9 (noting that "it was commonly held that the Iranians were already present in Bosnia").

¹²² Talbott Subcommittee Dep. at 34.

¹²³ Prior to war breaking out between the Bosnian Croats and Bosnian Muslims in May 1993, routine shipments of arms were detected by Western intelligence sources. Except for those interdicted at sea, none of these known shipments were stopped during the Clinton administration. Even after the war had restricted the formal pipeline between Croatia and Bosnia, arms continued to trickle in to the Bosnian Muslims. Intelligence indicated that these

Further, the "no instructions" response would not constitute a violation of the arms embargo by the United States.¹²⁷ Responding in this manner allowed the United States to avoid taking a position that was opposed by our allies, maintain the efficiency of the Federation which the United States saw as imperative to securing peace in the region, and enable the Bosnian Muslims to obtain light arms.

National Security Advisor Lake presented the proposed response to President Clinton aboard Air Force One.¹²⁸ The President affirmed the course of action that had been outlined for him.¹²⁹ Deputy Secretary Talbot contacted Undersecretary Peter Tarnoff, who was Acting Secretary, in Talbot's absence, to make certain that the response and the reasons for it were conveyed accurately.¹³⁰ Tarnoff relayed the decision to Thomas Donilon who informed the Secretary of State of the President's decision.¹³¹ Although the Secretary had not participated arms were available on the black market, smuggled in on relief convoys, or transported by UNPROFOR contingents.

¹²⁷ United Nations Security Resolution 713 required states to refrain from delivering arms to any state of the former Yugoslavia but it did not require states to enforce the embargo with regard to third countries.

¹²⁸ *Id.* at 31.

¹²⁹ *Id.*

¹³⁰ *Id.* at 32. Undersecretary Tarnoff recalls having discussions on this issue with Sandy Berger, the Deputy National Security Advisor. According to Tarnoff's recollection, Berger was in touch with Air Force One and he actually informed Tarnoff that the instructions to Galbraith were to convey "no instructions." Tarnoff Subcommittee Dep. at 5. Although witnesses' recollections differed slightly on this series of conversations, the Minority concludes that Undersecretary Tarnoff and other key figures were kept adequately informed throughout the process.

¹³¹ Donilon Subcommittee Dep. at 13. Tarnoff had been in contact with Donilon throughout the day and the Secretary was aware fully that these policy discussions were ongoing

directly in the policy discussions occurring in Washington and aboard Air Force One, he concurred with the decision.¹³²

The Majority takes note that none of the options considered by the Administration included prohibiting Iranian arms from transiting Croatia, but allowing "more palatable and less dangerous sources" of arms to arrive.¹³³ But the question posed to United States officials throughout April 1994 by the Croats was not what the United States position on an Iranian arms pipeline to the Bosnians would be, but rather, whether the United States would object to the resumption of the arms pipeline which consisted of, among others, Croatian, Turkish, Malaysian, South African, and Iranian arms. An attempt to exclude Iranian weapons to the Bosnians would have created very difficult practical problems. The United States would have been forced to be more active in securing arms from other countries which would have created problems with our allies; and it would have forced the Bosnians - and the Croats - to become more dependent on

in Washington and aboard Air Force One. *Id.*; Tarnoff Subcommittee Dep. at 7.

¹³² Donilon Subcommittee Dep. at 15. Donilon testified that the Secretary gave no opinion on the matter other than an "okay" when informed of the policy decision. *Id.*; see also Tarnoff Subcommittee Dep. at 8 (explaining that the bulk of his conversations with the Donilon and the Secretary concerned the available options and risks involved in each response); Donilon explained, however, that if the Secretary had any concerns or disagreements with the position, he would have registered those with the policy makers in Washington directly. Donilon Subcommittee Dep. at 14-15; Tarnoff Subcommittee Dep. at 10. The Department of State has a system in place whereby the Acting Secretary has the full authority to act while the Secretary is traveling without seeking the Secretary's input into a particular matter. *Id.* at 33-35. If, however, in an instance such as this one the Acting Secretary believes that the Secretary should know of the events occurring, an elaborate communications network is available. *Id.* at 34. In this case Undersecretary Tarnoff believed the issue important enough to keep the Secretary informed throughout the entire process.

¹³³ Majority Final Report at 97.

the United States to screen all the arms entering the region to ensure they were not Iranian. Such an effort would have attracted more attention to the shipments and impeded the arms flow. The whole purpose of the "no instructions" response was to make sure that the United States took absolutely no active position on the arms pipeline.

Ambassador Galbraith Reaches "No Instructions" and Responds to the Croatian President.

Deputy Assistant Secretary Vershow contacted Ambassador Galbraith in the early morning hours of April 28, 1994, and relayed the Administration's response.¹¹⁸ Over an open line from his home, Vershow informed Ambassador Galbraith that he should tell Tudjman that he had "no instructions."¹¹⁹ At the time, Ambassador Galbraith understood this to mean that the State Department had not yet formulated a response.¹²⁰

Ambassador Galbraith went to his meeting with President Tudjman.¹²¹ The meeting

¹¹⁸ Ambassador Galbraith believes the telephone call came at 6:30 a.m. Zagreb time. Galbraith Subcommittee Dep. at 21.

¹¹⁹ Vershow Dep. at 63. Vershow could not recollect on whose authority he made the call, but he presumed it came from Undersecretary Tarnoff. Vershow admits that this phone call may have been "rather cryptic" because it was made on an unsecured line from his home. Vershow made the telephone call late at night, Washington time, to compensate for the time difference and not wake the ambassador too early in the morning, Zagreb time. Id.

¹²⁰ Galbraith Subcommittee Dep. at 22. In hindsight, however, the Ambassador believes that he was aware through his earlier conversations that the "no instructions" response was heavily favored in Washington, but because Vershow was on an open line the specificity of that decision was not conveyed. Id.

¹²¹ Also in attendance at this meeting was Tom Mithmach, the economic officer for the embassy who served as a note taker, and possibly Professor Peravic, a Croatian national who served as President Tudjman's translator although the President did speak English. Galbraith Subcommittee Dep. at 23.

concerned a variety of issues outside of the arms shipments,¹²² and when President Tudjman posed the question, Ambassador Galbraith informed him that he had no instructions because Washington had not yet issued a response.¹²³ Ambassador Galbraith believed that President Tudjman was not satisfied with this answer and had hoped for something more definitive.¹²⁴

After the initial meeting with President Tudjman, Ambassador Galbraith sent a cable to the Department of State reporting the details of his conversation and requesting further guidance.¹²⁵ Ambassador Galbraith's cable was critical of the position in which he had been placed as a result of having to tell President Tudjman that he had no instructions. Ambassador Galbraith reiterated his belief that this query by the Croats was of great import and should be treated as such by the United States.¹²⁶ Ambassador Galbraith believed strongly that the United States should be able to respond to a diplomatic request in a timely manner, especially one with as much potential significance to the survival of the Bosnian Muslims and the future of the newly created Federation and the success of peace in the region.¹²⁷ Ambassador Galbraith cabled

¹²² Id. at 24-25; Galbraith Cable, Zagreb 1721, Apr. 28, 1994.

¹²³ Galbraith Subcommittee Dep. at 23.

¹²⁴ Id. at 25.

¹²⁵ Galbraith Outgoing Cable, Apr. 28, 1994.

¹²⁶ Id. Galbraith explained in testimony that although arms had flowed previously to the Muslims via Croatia, it was a trickle of little significance. Further, Croatia had faced United States as well as international sanctions in February 1994 resulting from its support of the Bosnian Croats during the Muslim-Croat war. Having emerged from that, Croatia did not want to take any actions that would run afoul of United States policy and possibly bring sanction threats again. Galbraith Subcommittee Dep. at 27. This is why the Croats broached the subject at all with the United States and why it was of such importance to them. Id.

¹²⁷ Id. at 27.

Washington but heard nothing in response until his conversation with Jenome Walker on April 29, 1994.¹⁴²

Vershbow testified that on the afternoon of April 28, 1994, he discussed the Croatian inquiry with Ambassador Charles Redman.¹⁴³ Vershbow's notes of the conversation record Redman remarking to Vershbow that President Tujman had requested his presence in Zagreb to discuss, among other things, arms shipments from Iran.¹⁴⁴ Redman indicated to Vershbow that he would go to Zagreb on Friday afternoon and, if he had instructions, he would convey them.¹⁴⁵

¹⁴² Id. at 28. Ambassador Galbraith did not recall having any other conversations with Vershbow on April 28; however, Vershbow believes that he spoke again with Ambassador Galbraith on April 28 to clarify that the United States position on this matter was that the ambassador had no instructions with regard to the Croats facilitating arms transfers to the Bosnians. Vershbow Subcommittee Dep. at 63.

¹⁴³ Vershbow Subcommittee Dep. at 70. Vershbow's contemporaneous notes place the conversation at 12:45 p.m., Washington, D.C. time. Special Envoy Redman has no recollection of this conversation. Select Subcommittee Deposition of Charles Redman, Aug. 27, 1994 at 38 (hereinafter "Redman Subcommittee Dep."); Special Envoy Redman frequently telephoned the Department of State, the National Security Council, and the Department of Defense during his negotiations. See, e.g., Redman Subcommittee Dep. at 39 (noting, "I was in touch with as many people as I could all the time"); Vershbow Subcommittee Dep. at Select Subcommittee Interview of Jenome Walker, Aug. 21, 1996, at 1 (hereinafter "Walker Subcommittee Int."); stating that "when Charles Redman was Special Envoy he had almost daily contact with the NSC staff. . . ."). Special Envoy Redman had been appointed by President Clinton to replace the former Special Envoy Reginald Bartholomew. Redman had just concluded the Washington Accords and was in the midst of continuing Federation agreements and Contact Group meetings during this time.

¹⁴⁴ Vershbow Subcommittee Dep. at 70. Redman recalls that the purpose of his meeting with President Tujman was to brief him on the contact group meetings. Redman Subcommittee Dep. at 41.

¹⁴⁵ Vershbow Subcommittee Dep. at 70-71. Vershbow could not recollect how this issue had come to Redman's attention. He surmised that Redman had become aware through Galbraith's reporting cables. Id. at 70. In addition to many executive agency and Department

Vershbow cannot recollect clearly whether he informed Redman of the emerging "no instructions" policy, but assumes that he must have since the call would have been on a secure telephone line.¹⁴⁶

Events of April 29, 1994: The Question Is Posed Again.

On April 29, Vershbow drafted a cable to Ambassador Galbraith which was never transmitted.¹⁴⁷ Vershbow testified that the cable had been written after at least one of

Ambassador Galbraith's meetings with President Tujman, and given the time difference, may have been written after both meetings.¹⁴⁸ The cable was merely a written record of the instructions that Galbraith already had received orally, according to Vershbow.¹⁴⁹ The "no instructions" response was the formal United States position on the matter and the cable merely personnel. Redman was "tagged" to receive Ambassador Galbraith's outgoing cables. See Galbraith Outgoing Cable, Apr. 27, 1994.

¹⁴⁶ Vershbow Subcommittee Dep. at 72. Vershbow's recollection could not be refreshed by his notes as there is no indication of what he told Redman during the call. During this conversation, Redman further explained that in his dealings with Bosnian Prime Minister Slijegovic, it was the Bosnian belief that the Croats wanted money rather than arms and that pending economic contracts with Iran were being held up through "Bosnian/Iranian contrivance." Id. at 71.

¹⁴⁷ Id.

¹⁴⁸ Id.

¹⁴⁹ Id. at 63. Other than the cryptic "no instructions" response he received from Vershbow in the early morning hours of April 28, 1994, Ambassador Galbraith does not recall speaking with the DAS prior to his conversation on the evening of April 29, 1994 with Jenome Walker of the NSC. Vershbow believes, however, that he may have telephoned Ambassador Galbraith again on April 29 to reiterate the "no instructions" response and that it was after this call that the cable was drafted. Id. at 61, 63.

was an ex post facto historical record of those instructions.¹⁴⁸

Special Envoy Redman arrived in Zagreb on April 29, 1994, and together with the Ambassador, was scheduled to have dinner with President Tudjman.¹⁴⁹ Ambassador Galbraith expected that President Tudjman would renew his inquiry as to the United States reaction to Croatia's transshipment of arms to Bosnia.

Ambassador Galbraith telephoned Special Envoy Redman prior to his arrival at Embassy Zagreb¹⁵⁰ and asked the Special Envoy to his residence prior to the dinner as he had something to discuss with him. Ambassador Galbraith was eager to engage Special Envoy Redman on the anticipated request prior to the meeting because of his knowledge of the region and of Balkan issues.¹⁵¹ Ambassador Galbraith believed that the Special Envoy's involvement would elicit a response from Washington and that his presence at the Tudjman meeting would be beneficial.¹⁵²

Ambassador Galbraith Contacts the NSC for Final Guidance.

That evening, Ambassador Galbraith and Special Envoy Redman met in the embassy residence. Ambassador Galbraith elaborated on his earlier, cryptic message and explained that

¹⁴⁸ *Id.* The draft cable read in pertinent part: If the subject [of arms shipments through Croatia] is raised again, you should state that you have no instructions on this matter. . . . This has been reviewed at high levels within the United States government.

¹⁴⁹ Redman Subcommittee Dep. at 41.

¹⁵⁰ *Id.* at 40.

¹⁵¹ Galbraith Subcommittee Dep. at 35.

¹⁵² *Id.* at 35-36.

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he was still awaiting further guidance on responding to the forthcoming Croatian question.¹⁵³ Ambassador Galbraith informed Special Envoy Redman that he would call the National Security Council ("NSC") to see if he could obtain further guidance.¹⁵⁴ Special Envoy Redman concurred because he also felt that this issue was particularly important to the future of the Federation.¹⁵⁵

The Defense Attache also was present at the residence¹⁵⁶ to discuss the recent request for technical assistance from the Croatsians¹⁵⁷ as well as the anticipated question from Tudjman.¹⁵⁸ The Defense Attache placed the call to Jenome Walker at the NSC¹⁵⁹ on behalf of Ambassador Galbraith.¹⁶⁰ Ambassador Galbraith first discussed Susak's request with Walker and then

¹⁵³ *Id.* at 41.

¹⁵⁴ *Id.*; Galbraith Subcommittee Dep. at 30.

¹⁵⁵ Redman Subcommittee Dep. at 42.

¹⁵⁶ Herrick Subcommittee Dep. at 25.

¹⁵⁷ *Id.*; see, supra n.9 (discussing the Croatian request for assistance with an exploded ammunition dump.) The Defense Attache and Ambassador Galbraith had discussed this matter previously and had concurred that they should telephone Walker. Herrick Subcommittee Dep. at 27. LtCol. Herrick indicated that the United States did send a team to assist the Croatsians with the ammunition dump "within the next couple of days" after this telephone call. *Id.* at 30.

¹⁵⁸ Redman Subcommittee Dep. at 42. Ambassador Galbraith believes that he may have discussed the ordinance matter with Jane Hall, another NSC staff person, prior to speaking with Jenome Walker, although both conversations occurred during the same telephone call. Galbraith Subcommittee Dep. at 30.

¹⁵⁹ Jenome Walker was the senior NSC staff member responsible for the Balkans.

¹⁶⁰ Redman Subcommittee Dep. at 26.

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informed her of the impending meeting with President Tudjman.¹⁴⁰

Special Envoy Redman and the Defense Attache were present in the room during Ambassador Galbraith's conversations with Walker about the impending question from the Croats.¹⁴¹ Walker informed the ambassador that the response to the question was to be "no instructions."¹⁴² Ambassador Galbraith understood Walker was relaying these instructions directly from Anthony Lake.¹⁴³ Ambassador Galbraith was told that Lake had relayed the instructions with "a smile and a raised eyebrow."¹⁴⁴ When Ambassador Galbraith concluded his conversation, he had no doubt in the "no instructions" response was the formal United States reply to be conveyed to the Croatian government and that it was supported by both the National

¹⁴⁰ Herick Subcommittee Dep. at 26.

¹⁴¹ Id.

¹⁴² Jenome Walker recalls telling Galbraith that he was to inform President Tudjman "that the United States would comply with the embargo, but that he had no instructions as to Croatia." Walker Subcommittee Int. at 1.

¹⁴³ Galbraith Subcommittee Dep. at 29. Jenome Walker recalls giving Galbraith the no instructions advice prior to discussing the matter with Anthony Lake. Walker Subcommittee Int. at 1. Walker stated, however, that Lake concurred with her instructions to Galbraith and, in fact, instructed her to reiterate them for Ambassador Galbraith. Id. The fact that Walker does not recall events in the same sequence as the other witnesses to this conversation is not a matter of substance as she does recall that the instructions given to Galbraith were 1) the United States complies with the embargo, and 2) there are no instructions with regard to the Croatian question which is consistent with the testimony of other witnesses.

¹⁴⁴ Galbraith Subcommittee Dep. at 31. Jenome Walker does not recall whether she contacted the Ambassador again after discussing this matter with Anthony Lake, but she believed it logical that she would have. Walker Subcommittee Int. at 1-2. Walker had no recollection of Lake confirming the "no instructions" with a smile and raised eyebrows. Id. at 2.

Security Council and the Department of State.¹⁴⁵

After Ambassador Galbraith ended his conversation with Walker, Special Envoy Redman spoke to her.¹⁴⁶ Special Envoy Redman talked with Walker for five or ten minutes¹⁴⁷ about his meetings with the contact group and other matters.¹⁴⁸ At the conclusion of the conversation,

¹⁴⁵ Galbraith Subcommittee Dep. at 37-38. Prior to this conversation with Galbraith and Redman, Walker was aware of the "no instructions" policy although she could not recollect from where. Walker Subcommittee Dep. at 2. Walker recalls conveying this guidance to Alexander Vershbow at the Department of State at some point after her discussion with Lake and receiving assurance from Vershbow that he would run it through his chain of command to ensure that Ambassador Galbraith received the correct instructions. Id. It is her belief that Vershbow told her that Galbraith had been told by the Department of State that the United States abided by the embargo and expected Croatia to do the same. Id. at 2. Vershbow, however, only recalls giving Galbraith the temporary "no instructions" policy. Special Envoy Redman also does not recall telling Walker that these were the instructions Galbraith had received from the Department of State. Redman Subcommittee Dep. at 43.

This was an extraordinarily busy and delicate time for the policy makers involved in obtaining peace within the Balkans. Literally hundreds of phone calls and hours of negotiations occurred daily. The fact that witnesses have different recollections of the timing and exact wording of a few conversations over the course of days is not significant in light of the overall circumstances in which they occurred. As stated throughout this Section, the Minority affords no special significance to the fact that witness recollections of these events do not coincide perfectly.

¹⁴⁶ Herick Subcommittee Dep. at 31. Jenome Walker does not recall the conversation being initiated by the Defense Attache on behalf of Ambassador Galbraith. It is her belief that the telephone call was initiated by Ambassador Redman. Walker Subcommittee Int. at 1. According to Walker, Redman telephoned her from Zagreb because he believed that Ambassador Galbraith had received instructions on this matter that both "surprised and troubled" him. Id. He then put Galbraith on the telephone. Id. None of the other witnesses interviewed by the Select Subcommittee recall the events of this evening in the same manner as Jenome Walker. It is possible, due to the lapse of over two years, that the witnesses recall certain things with varying clarity. The Minority Staff does not consider this discrepancy material to the events that took place or this investigation.

¹⁴⁷ Herick Subcommittee Dep. at 31.

¹⁴⁸ Redman Subcommittee Dep. at 44. Redman characterized his conversation with Walker as typical of his daily debriefings on negotiations that he would give her whenever

Ambassador Galbraith and Special Envoy Redman left for the meeting with President Tudjman; the Defense Attache did not accompany the Ambassadors to the meeting.¹⁷⁶

The April 29, 1994 Tudjman Meeting

On their way to the meeting with Tudjman, Ambassador Galbraith and Special Envoy Redman discussed the delivery of the United States response to President Tudjman.¹⁷⁷ Both officials considered the diplomatic exchange to be of the utmost importance, and wanted to be sure they conveyed the policy correctly and in a manner that would be understood clearly by the Croats.¹⁷⁸ The United States foreign policy community had expended great effort over the last seventy-two hours carefully crafting the response and it was imperative that the language not be misconstrued.

Before the dinner with Tudjman, the Ambassadors met with the President in his upstairs office at the presidential palace.¹⁷⁹ When Tudjman asked the question, Ambassador Galbraith replied: "I have no instructions, but pay attention to what I am not saying."¹⁸⁰ President Tudjman possible. *Id.* at 45. To the best of his recollection, he had no independent conversation with Walker about the Croatian question. *Id.* at 44-45.

¹⁷⁶ Herrick Subcommittee Dep. at 32.

¹⁷⁷ Redman Subcommittee Dep. at 47.

¹⁷⁸ *Id.* Ambassador Galbraith had expressed earlier in his conversations with the Deputy Assistant Secretary his concerns that a pure "no instructions" response might not be understood accurately by the Croats. It was, therefore, extremely important to Ambassador Galbraith that he deliver the response as succinctly as possible. *Id.* at 48 (noting that "this question was from the President of a country to which [Ambassador Galbraith] was accredited, so he wanted to be responsive and he wanted to responsive in accordance with policy").

¹⁷⁹ *Id.* at 50.

¹⁸⁰ Galbraith Subcommittee Dep. at 38.

listened carefully to the response but both Ambassador Galbraith and Special Envoy Redman believed that he did not completely understand what was being conveyed.¹⁸¹

As the meeting adjourned and the three proceeded downstairs to dinner, President Tudjman pulled Redman aside¹⁸² and asked the Special Envoy what Ambassador Galbraith's response meant and if there was something more that could be told him.¹⁸³ Special Envoy Redman responded, "It's your decision. We do not want to be put in the position of saying no."¹⁸⁴ President Tudjman had no outward reaction to this response nor did he raise the issue again throughout the dinner.¹⁸⁵ Both Ambassador Galbraith and Special Envoy Redman believed at that point that the Croats understood that the United States would not object to the Croatian decision to transfer arms to the Bosnians.¹⁸⁶

The Decision to Report Orally to Washington

After the dinner Galbraith and Redman discussed how to report to Washington on their

¹⁷⁹ Redman Subcommittee Dep. at 50; Galbraith Subcommittee Dep. at 38.

¹⁸⁰ *Id.* According to Ambassador Redman, it was a Croatian tradition to conclude business and proceed downstairs for a short cocktail and dinner. Redman Subcommittee Dep. at 50.

¹⁸¹ *Id.* at 51.

¹⁸² *Id.* It is important to note that this was not the first time such a question had been posed to a United States Special Envoy. In April 1993, the United States Special Envoy was Reginald Bartholomew, the current Ambassador to Italy. During the month of April, Ambassador Bartholomew was approached by Defense Minister Sisk and asked what the United States position was on Croatian facilitated arms shipments to Bosnia. See, pages 33-38, *supra*. Special Envoy Bartholomew responded exactly as Special Envoy Redman did nearly a year and half later: "We do not want to be put in the position of saying no."

¹⁸³ Redman Subcommittee Dep. at 51.

¹⁸⁴ Galbraith Subcommittee Dep. at 39; Redman Subcommittee Dep. at 51.

encounter with Tufjman.¹⁴¹ Special Envoy Redman was scheduled to depart Zagreb for Washington, D.C. the next day,¹⁴² and the two agreed that Redman could brief the appropriate officials orally at that time. Special Envoy Redman remarked that an oral response was consistent with the fact that the response had been received orally.¹⁴³ Special Envoy Redman told Ambassador Galbraith that he would contact him about sending a follow-up cable.¹⁴⁴

Special Envoy Redman met with the National Security Advisor upon his return to the United States.¹⁴⁵ The meeting primarily concerned Redman's work with the Contact Group.¹⁴⁶ Redman also briefed Lake at the Tufjman meeting and informed him that he and Ambassador Galbraith expected the Croats to proceed with the shipments as a result of the United States response.¹⁴⁷ The National Security Advisor nodded his understanding of this expectation.¹⁴⁸ Special Envoy Redman asked Lake if he desired further reporting from Ambassador

¹⁴¹ Galbraith Subcommittee Dep. at 40.

¹⁴² Redman Subcommittee Dep. at 52.

¹⁴³ Galbraith Subcommittee Dep. at 40; Redman Subcommittee Dep. at 40. Ambassador Redman explained that reporting orally was far more efficient given the fluid nature of events in the Balkans. There was no time to sit down and write long reports of events. Redman Subcommittee Dep. at 79.

¹⁴⁴ Galbraith Subcommittee Dep. at 40.

¹⁴⁵ Redman Subcommittee Dep. at 52. Redman "typically reported to Tony Lake whenever he came back from a mission." Id.

¹⁴⁶ Id.

¹⁴⁷ Id.

¹⁴⁸ Id.

Galbraith on this matter.¹⁴⁹ Lake indicated that no further reporting on the matter would be necessary.¹⁵⁰ Special Envoy Redman telephoned Ambassador Galbraith and informed him that a reporting cable would not be necessary.¹⁵¹

There has been wide debate about why this meeting was not memorialized in some written record and whether Special Envoy Redman's oral report to officials in Washington was out of the ordinary. The Minority concludes that there was nothing incorrect in the decision to report this matter orally. It was expected that the United States response would have immediate results¹⁵² and notification of the responsible officials in a timely manner was essential. Cable traffic, even that with restricted distribution, was distributed widely,¹⁵³ and given the Administration's desire to keep the exchange closely held, wide distribution was considered unwise. Time also was a factor to be considered when using cables to report important events; it often took several days for cables to reach the various people who needed the information. The decision to have Special Envoy Redman deliver the results orally ensured that the proper policy makers were notified promptly and thoroughly of the meeting results. The decision to report orally also was in keeping with the way this policy decision had been handled throughout the

¹⁴⁹ Id. at 54.

¹⁵⁰ Id.

¹⁵¹ Redman Subcommittee Dep. at 56; Galbraith Subcommittee Dep. at 42.

¹⁵² As discussed supra pages 130-131, Ambassador Galbraith knew that the Iranians and Croats were scheduled to meet on this matter the very next day. If, as expected, the Croats took the United States response to mean there would be no United States objections to the transshipments, those shipments could be arranged immediately. In fact, the first shipments of arms for the Bosnians were transhipped the following week.

¹⁵³ Galbraith Subcommittee Dep. at 40-41.

United States government¹⁴ and reflects no deviation from accepted diplomatic practices, particularly as they occurred with regard to the highly fluid nature of the Balkans.

Other Events of April 30, 1994

On April 30, Croatian Prime Minister Vukobratovic arrived in Tehran. Vukobratovic and his delegation met with Bosnian Deputy Prime Minister Edib Bakovic, who had arrived the day before, and Iranian First Vice President Habibollah. According to foreign press reports, the meetings concerned "resolving the Bosnian crisis and humanitarian aid,"¹⁵ but likely also dealt with the resumption of the arms pipeline.¹⁶ On this same day, Verablow recalls that he spoke again with Galbraith and reiterated that "no instructions" was indeed the United States response to the Croats.¹⁷

¹⁴ See, e.g., Doolittle Subcommittee Dep. at 19, 20 (noting that to his knowledge all debate took place orally).

¹⁵ FBIS Report, Apr. 29, 1994.

¹⁶ FBIS Report, Xinhua News Agency, Beijing, China, May 1, 1994.

¹⁷ FBIS Report, Serjefev Radio, Sarajevu, Bosnia, May 7, 1994.

Verablow Subcommittee Dep. at 63. Verablow knew by this time that these instructions had been passed to Tufelman by Ambassador Galbraith and Special Envoy Redman, but it was his intention to clarify that this was not, in fact, an interim response, but the only response that the United States was to give on the matter. Verablow may have been reiterating the "no instructions" policy as a result of a conversation with Jerome Walker. See Walker Subcommittee Int. at 2. (Walker relayed the "no instructions" information to Sandy Verablow who advised that he would pass it through the Department of State.)

Events of Early May 1994: The Days Following the "No Instructions" Response

As mentioned above, on May 2, 1994, Special Envoy Redman telephoned Ambassador Galbraith and informed him that Lake had been briefed on the April 29, 1994 Tufelman meeting.¹⁸ Special Envoy Redman indicated that Lake saw no need for further reporting on the matter by Ambassador Galbraith.¹⁹ At that point, neither the Special Envoy nor Ambassador Galbraith was concerned about the lack of written reporting since both were confident that the response had been delivered correctly and the meeting reported accurately to the National Security Advisor.²⁰ According to Special Envoy Redman, this exchange was his last involvement with regard to the "no instructions" response.²¹

By May 2, 1994, the arms pipeline had been reestablished firmly.²² Also around this

¹⁸ Redman Subcommittee Dep. at 54; Galbraith Subcommittee Dep. at 42.

¹⁹ Redman Subcommittee Dep. at 56; Galbraith Subcommittee Dep. at 42.

²⁰ Galbraith Subcommittee Dep. at 43; Redman Subcommittee Dep. at 26, 89.

Ambassador Redman testified that he informed Anthony Lake fully on what had transpired during the meeting with President Tufelman and Ambassador Galbraith including the delivery of the "no instructions" response and Redman's further clarification to the Croatian president. Redman Subcommittee Dep. at 89.

After receiving confirmation that the Croats had accepted the proposal to transport arms to the Bosnian Muslims, the Balkan Task Force reported on the Iranian arms shipments to the region as well as the efforts of other countries such as Turkey and Malaysia to send arms to the Bosnian Muslims. This information was disseminated periodically in the National Intelligence Daily which is delivered to Congress, the White House, and other Executive Branch agencies. For a list of National Intelligence Daily references to the arms shipments, see Appendix E of this report.

²¹ Id. at 57.

²² Id.

time, the Defense Attache learned what had transpired at Ambassador Galbraith and Special Envoy Redman's meeting with President Tadjman from the DCM.³²⁷ Neitzke relayed to the Defense Attache that the question had been posed to Ambassador Galbraith by President Tadjman twice in the last few days and that Ambassador Galbraith and Special Envoy Redman had responded with "no instructions."³²⁸ The DCM also discussed the events of the preceding week with the [redacted].

At the conclusion of their conversation, the DCM told the [redacted] not to record the conversation and to keep their discussion to himself.³²⁹ The DCM wrongly assumed that because Ambassador Galbraith had been told no [redacted] reporting was necessary, policy makers in Washington did not want to be associated with the policy. The DCM took his speculation to the [redacted] who immediately disregarded the DCM's request and reported the conversation to his headquarters. It is this type of rumor mongering that contributed to the overall confusion between the [redacted] and his headquarters, the CIA and other Executive Branch agencies, and within Embassy Zagreb, between the Ambassador and the [redacted].

[redacted]

³²⁷ Herrick Subcommittee Dep. at 32.

³²⁸ Herrick Subcommittee Dep. at 32. LtCol. Herrick only remembered this conversation generally when he testified. Id. Although the phrases "Herrick to what I am not saying" and "we don't want to be in the position of saying no" were familiar to him, he attributed them to accounts he had read in newspapers of these events rather than his conversation with Neitzke at the time. Id. at 32-33.

³²⁹ Neitzke Subcommittee Dep. at 174. [redacted] Subcommittee Dep. at 42. As noted throughout this report, much of the information contained in the [redacted] reporting cables is attributed to the DCM. The DCM, by context in his testimony, attributes most of his knowledge of events to the [redacted].

³³⁰ See [redacted] May 5, 1994, [redacted] Subcommittee Dep. at 34. Neitzke did not recall admonishing the [redacted] about making a written record of the conversation. Neitzke Subcommittee Dep. at 174.

COMMUNICATIONS AND MISCOMMUNICATIONS AT THE CIA

Throughout the summer and fall of 1994, a series of miscommunications, uninformed legal judgments and inaccurate reporting within the Central Intelligence Agency created confusion that rippled through the Agency. The CIA confusion had the unfortunate result of creating an atmosphere of suspicion and mistrust directed toward Ambassador Galbraith that was not justified by the facts. The confusion could have been averted by better supervision within the Agency, improved procedures for disseminating legal opinions, and higher standards for reporting.

The most significant of the miscommunications occurred prior to and in the aftermath of the May 5, 1994 meeting between James Woolsey, the Director of Central Intelligence ("DCI"), Secretary of State Warren Christopher and Deputy Secretary of State Strobe Talbott.¹ Several months later, in late September and October 1994, a second round of suspicions about the activities of Ambassador Galbraith and Assistant Secretary Holbrooke arose. Lapses in communication dating back to May and the extensive reporting of rumor and gossip along with intelligence by the [redacted] fueled these suspicions. On October 5, Director Woolsey raised the suspicions brought to his attention by CIA personnel with National Security Advisor Anthony Lake.²

¹ A brief discussion of the May 5 meeting follows below.

² A more detailed discussion of the events surrounding the October 5 meeting can be found in Chapter Two, Section Eight.

[redacted] The miscommunication becomes even more pronounced if it affects negatively the accuracy of information coming back through the [redacted] channels to headquarters, as clearly was the case at Embassy, Zagreb. [redacted]

To assure that President Tudjman was not confused by the incorrect statement provided

[redacted] Ambassador Galbraith asked the [redacted] to contact [redacted] and inform him that a "no instructions" response had been delivered to [redacted] by the United States on April 28 and April 29, 1994. [redacted] refused the request pending written instructions from Washington. When the ambassador explained that the instructions had been passed to him orally, the [redacted] again refused the request. After what the [redacted] characterized as a heated discussion, he reported the conversation to [redacted] headquarters and requested guidance. The [redacted] informed headquarters that unless he heard otherwise, he would assume that the United States would not impede the arms flow," although he reiterated his request for clarification on this point. [redacted]

The Majority has stated that the CIA was kept in the dark about Department of State policy making. The testimony and reporting by the [redacted] is incontrovertible evidence that the [redacted] was informed fully and in a timely fashion. Unfortunately, the [redacted]

¹⁰ Andres Subcommittee Dep. at 23.

¹¹ Id. Andres explained that if the information coming through the channels is not accurate, it gives the wrong impression in "Washington" of what is occurring in the field and guidance cannot be developed accurately. Id.

¹² [redacted] May 4, 1994. [redacted]

chose neither to accept the truth nor to act upon it. [redacted]

As demonstrated by subsequent events, the characterization of events by the [redacted] not only caused concern within the CIA, but contributed to the significant miscommunication between the Agency and the Department of State. The [redacted] repeatedly referred to a United States agreement not to impede the arms flow. This reporting strongly suggested to the CIA that Ambassador Galbraith used similar terminology in his meetings with President Tudjman. In fact, the Ambassador carefully and clearly avoided any kind of agreement with the Croatian president and certainly avoided any agreement not to impede the arms flow. The critical aspect of the "no instructions" response was its total avoidance on the part of the United States to agree to do anything. [redacted]

Central Intelligence Agency Concern about Cover Activity.

On May 5, 1994, the [redacted] from a reporting cable detailing his discussions with Ambassador Galbraith regarding the no instructions response to President Tudjman. This cable became the focal point of concern surrounding this issue among Central Intelligence Agency senior staff. Two facets of this cable caused some CIA officials to question activities occurring in Zagreb. The first and most alarming aspect was the request of the Ambassador to the [redacted] to convey a message through [redacted] channels. The overall involvement of the Iranians in the arms shipments also troubled some CIA officers given Iran's turbulent history with the United States and the CIA. [redacted] The Director of the CIA, however, did not have any particular

¹³ See, e.g., Select Subcommittee Deposition of [redacted] Aug. 16, 1996, at 38 (noting the implications of Iranian weapons shipments) (hereinafter "Select Subcommittee Dep. 7"); Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 9 (explaining that the United States had a policy of containing Iran because of hostility to the United States and

concern about the Ambassador's diplomatic exchange with the Croatian President. ~~_____~~

The primary concern of the ~~_____~~ was the policy which he had been asked to convey to the ~~_____~~ by the Ambassador. The ~~_____~~ refused to accept the legitimacy of a response that might lead to increased Iranian arms shipments absent something in writing from headquarters or another executive agency. " Thus the ~~_____~~ repeatedly asked for confirmation from headquarters that the United States policy was in fact what Ambassador Galbraith had told him. ~~_____~~

The cable troubled ~~_____~~ the Deputy Chief of the ~~_____~~ within ~~_____~~ and her own alarm. ~~_____~~ informed her superiors in the ~~_____~~ of the matter in one of the daily meetings the branch held to discuss problems or issues of importance. " The branch decided to bring the matter to the attention of the Director of Central Intelligence so that he could address what the Operations Directorate saw as a misuse of the

~~_____~~ channel. " Thus, the ~~_____~~ pursued the procedural issue of the use of the ~~_____~~ channel while the ~~_____~~ was trying to determine the accuracy of the

other allies) (hereinafter "Woolsey Subcommittee Dep. "). ~~_____~~

¹³ The ~~_____~~ explained in his cable that he was certain once the Iranian involvement was exposed the United States would have halted the proposed shipments and he therefore was shocked by Ambassador Galbraith's assertion that this was policy.

¹⁴ One of ~~_____~~ responsibilities was to review the ~~_____~~ and respond to them as necessary or requested.

¹⁵ Subcommittee Dep. at 49. ~~_____~~

message he had been asked to convey to his ~~_____~~ officer. ~~_____~~

~~_____~~ prepared a memorandum of talking points for the Director of Central Intelligence to use in his weekly meeting with the Secretary of State. ²⁶ The talking points did not focus on the "no instructions" position that Ambassador Galbraith had conveyed to the Croats, but rather the notion that the Ambassador had attempted to convey that position through the ~~_____~~. ~~_____~~ received expedited approval of her talking points and had them delivered to the DCI shortly before his meeting with the Secretary of State. The basis for the extreme concern felt by ~~_____~~ was her belief that Ambassador Galbraith sought to involve the ~~_____~~ in an idea, first brought to her attention on April 20, 1994 by the ~~_____~~ that she believed amounted to covert action. The prospect of CIA involvement in a scenario reminiscent of the Iran-contra affair was particularly troubling to her.

The Director of Central Intelligence was briefed on the matter by the Deputy Director of Operations ("DDO") and his executive assistant sometime on May 4 or May 5, 1994. " Around the time he was briefed, the talking points and underlying cables that ~~_____~~ prepared were made available to him. " At some point either on May 4 or the morning of May 5, 1994, as the Director learned of the issue from his Director of Operations, Doug MacEachin - the Director

²⁹ Normally, talking points for the Director's meetings with the Secretary would be prepared and placed in a briefing binder in advance of his meeting. *Id.* at 51. In this instance, the decision to bring the matter to the Secretary's attention occurred rapidly and ~~_____~~ drafted her talking points quickly so that they could be included in the Director's briefing papers. *Id.* at 50.

³¹ *Id.* at 12. A notation on the talking points prepared by ~~_____~~ indicates that the Director was seized with the matter as of May 5, 1994. CIA Talking Points, May 5, 1994, at 1. (TS) ~~_____~~

³² Woolsey Subcommittee Dep. at 13.

of the Intelligence Directorate ("DDI") - also became aware of the cable traffic from the [redacted] [redacted] Either [redacted] the head of the Balkan Task Force, or John Gannon, the Director of the Office of European Affairs, orally briefed MacEachin about the Zagreb exchanges.²² MacEachin learned that, based on the [redacted] cable, there was great concern that the ambassador had requested the [redacted] to facilitate arms shipments.

MacEachin did not see the underlying cables and was given only enough information to know that the DCI intended to raise the matter with Secretary Christopher at their May 5, 1994 weekly meeting.²³ The CIA concerns were based on imprecise characterizations of the [redacted] cables and did not reflect the [redacted] actual concerns. As a result, CIA Washington and [redacted] began to work at cross purposes with regard to understanding the "no instructions" policy.²⁴

On May 5, CIA headquarters cabled the [redacted] with an interim response to his request. The cable informed the [redacted] that the DCI was seeking clarification from the NSC, and that the [redacted] should not broach the arms issue with [redacted] pending the outcome of the DCI's meeting. The interim response did not indicate what clarification the CIA was seeking, had it done so, much of the confusion that resulted later may have been

²² Select Subcommittee Deposition of Douglas MacEachin, Sept. 6, 1996, at 6 (hereinafter "MacEachin Subcommittee Dep. ").

²³ Id. at 8.

²⁴ Id. The concern was among the senior staff who had reviewed the cables and talked with [redacted].
²⁵ Id. Normally, Admiral Stuedeman, the Deputy Director of Central Intelligence, would attend these meetings but he was out of town. MacEachin's primary purpose at this meeting was to serve as a note taker so he was briefed with enough information to take adequate notes at the meeting. Id.

avoided.

The May 5, 1994 Meeting between DCI Hookley and Secretary Christopher: Clarification Is Sought.

On May 5, 1994, DCI Woolsey had his regularly scheduled meeting at the Department of State with Secretary Warren Christopher.²⁶ The DCI informed the Secretary and other Department personnel that the [redacted] had been asked to inform his [redacted] that the United States would in effect look the other way to Iranian arms shipments to the Bosnian Muslims.²⁷ The DCI also informed the Secretary that he had phoned Anthony Lake and brought this matter to Lake's attention.²⁸ Deputy Secretary Talbot acknowledged that he had received a telephone call from Sandy Berger, Lake's deputy, informing him of the conversation with Lake and the DCI's concerns.²⁹ To the DCI and his subordinates, the fact that the [redacted] thought he had been requested to take direct action to facilitate the arms flow was the core issue to be resolved.³⁰ Deputy Secretary Talbot, however, focused on the substantive message that was being communicated and not the means of the communication. Talbot worried, based on

²⁶ Also present at the meeting was MacEachin, Deputy Secretary Strobe Talbot, and Deputy Assistant Secretary for Intelligence and Research, Philip Wilcox. Id. at 5; Select Subcommittee Interview of Philip Wilcox, Aug. 14, 1996, at 1 (hereinafter "Wilcox Subcommittee Int. ").

²⁷ MacEachin Subcommittee Dep. at 13; Memorandum for the Record, May 5, 1994 (D. MacEachin, drafts).

²⁸ Id. at 15. As the CIA worked on a response to the [redacted] request for guidance, an interim cable was sent informing him that the matter had been taken to the Director and a recommendation made that he discuss the issue with Anthony Lake. [redacted] (May 5, 1994 (TS)). It is likely that this telephone call occurred as a result of that recommendation.

²⁹ Id.

³⁰ MacEachin Subcommittee Dep. at 14.

the DCI's report of what the [redacted] had reported, that instead of "no instructions" Ambassador Galbraith had responded in some other way. Talbot therefore told the DCI that Ambassador Galbraith instructed on several occasions, and at least once "harshly," that he was to respond that he had "no instructions" to any Great query on the subject.³¹ Talbot told the DCI that he would call Ambassador Galbraith and reconfirm his instructions.³² Following this exchange, the DCI and Secretary Christopher moved on to other agenda items.³³

May 5, 1994 in Zagreb

After a meeting with General Joulwan, the Commander of United States forces in Europe,³⁴ the Ambassador requested a ride to the embassy from the Defense Attache so that he could use a secure telephone.³⁵ Before arriving at the embassy, the Ambassador stopped at the DCOM's home and discussed the issue of arms transshipments to the Bosnians.³⁶ Ambassador Galbraith and Neitzke discussed "cryptically" the "no instructions" response that had been given to

³¹ Id. at 17.

³² Id. at 19.

³³ MacEachin Subcommittee Dep. at 18.

³⁴ General Joulwan was responsible for the military operations within Europe while General Keeler, also at European Command ("EUCOM"), was responsible for the diplomatic exchanges among the military in the region. Senate Select Committee on Intelligence Deposition of General Wesley Clark, June 24, 1996, at 27 (hereinafter "Clark SSCI Dep."). The meeting was to discuss Croatian intelligence information that the Defense Attache had received which indicated that the Serbs were planning an attack on Bosnian territory, leading to the Brcko corridor. Herrick Subcommittee Dep. at 34.

³⁵ At this time, the residence had not been equipped with a secure telephone. Herrick Subcommittee Dep. at 126.

³⁶ Herrick Subcommittee Dep. at 33.

President Tudjman.³⁷ The Ambassador and the Defense Attache left Neitzke's residence for the embassy. The Defense Attache took the Ambassador to his office to use the secure telephone there while he worked on administrative matters.³⁸

On May 6, 1994,³⁹ Vershow telephoned Ambassador Galbraith to determine if there was any question about the "no instructions" response.⁴⁰ Vershow wanted to ensure that Ambassador Galbraith understood that the "no instructions" response was not to be embellished in any way.⁴¹ Ambassador Galbraith recounted his delivery of the message to, and Special Envoy Redman's brief exchange with, President Tudjman. At the conclusion of this reciting, Vershow pronounced himself completely satisfied with the Ambassador's handling of the matter,⁴² and commented that Ambassador Galbraith and Special Envoy Redman had positioned

³⁷ Id. Herrick testified that the discussion was cryptic because it was believed that Neitzke's residence was insecure. Id.

³⁸ Id. at 35.

³⁹ Galbraith Memorandum for the File, May 6, 1994, at 1. Ambassador Galbraith testified that this conversation occurred on May 5, 1994 rather than May 6, 1994. Given the contemporaneous nature of the memorandum, the Minority believes the call came on May 6.

⁴⁰ Vershow Subcommittee Dep. at 96. According to Ambassador Galbraith's recollection, this call occurred prior to his discussions with Talbot. Galbraith Subcommittee Dep. at 44. Vershow does not recall Talbot directing him to make the call and was uncertain whether it occurred prior to or after Talbot had spoken to Galbraith personally. Vershow Subcommittee Dep. at 96-97.

⁴¹ Id. at 95. Galbraith recalls the conversation as more pointed. Galbraith believes that Vershow telephoned initially "to rap his knuckles" and to question whether he had succinctly delivered the no instructions response the way it was intended by policy makers in Washington. Galbraith Subcommittee Dep. at 43-44. Vershow has no recollection of being asked to reprimand Ambassador Galbraith for his delivery of the no instructions response. Id. at 99.

⁴² Vershow Subcommittee Dep. at 96; Galbraith Subcommittee Dep. at 44.

Ambassador Galbraith had discussed earlier that day. Talbot expressed some concern that the "no instructions" response had somehow gone "off track" when it was explained to Ambassador Galbraith by the National Security Council on April 29.⁴⁷ Talbot further explained that Special Envoy Redman had been involved in clarifying the "no instructions" response and that Ambassador Galbraith had shared with President Tadjman at an earlier meeting that "Washington hadn't made up its mind yet" on what response to pursue.⁴⁸ In this regard, Talbot expressed concern that Ambassador Galbraith and Special Envoy Redman had exceeded the pure "no instructions" delivery.⁴⁹ Vershbow and Talbot agreed that it would be best, however, to let the situation stand⁵⁰ given that the essential meaning of "no instructions" had been conveyed correctly by the Ambassadors.⁵¹

Deputy Secretary Talbot then discussed the issue of a written record of the events with Vershbow. He reiterated Ambassador Galbraith's request that the delivery of the response and surrounding events be memorialized.⁵² Talbot offered the view that if such a record were made,

⁴⁷ *Id.* According to Vershbow's contemporaneous notes, Jenome Walker gave Ambassador Galbraith the "no instructions" response "exactly [as the] Secretary thought [they should be] but that Tony Lake had requested the response be delivered with raised eyebrows and a smile." *Id.* Because of the NSC interpretation of the "no instructions" response, Ambassador Galbraith had focused President Tadjman's attention on "what he didn't say." *Id.*

⁴⁸ Vershbow Subcommittee Dep. at 78-79.

⁴⁹ *Id.*

⁵⁰ Vershbow Subcommittee Dep. at 80.

⁵¹ Senate Select Committee on Intelligence Hearing on U.S. Actions Regarding Iranian Arms Shipments to Bosnia, May 23, 1996, at 53-55 (hereinafter "Talbot SSOCI Hearing").

⁵² Vershbow Subcommittee Dep. at 80.

there should be only one copy in light of the matter's sensitivity.⁵³ Vershbow concurred in this assessment. Even overlooking this discussion, however, and no official written record of the exchange was created.⁵⁴ Although no contemporaneous written record was prepared, the testimony of the participants strongly indicates that a written record was not ruled out. The testimony also indicates that Deputy Secretary Talbot objected to a reporting cable only because of the inability to control distribution in an effective way.

Ambassador Galbraith Memorializes the Croatian Inquiry.

After Ambassador Galbraith's discussion with Deputy Secretary Talbot, the Ambassador discussed the affair with the DCM. He had not heard from Vershbow or Oxman as Deputy Secretary Talbot had indicated he would.⁵⁵ Although it was relatively common in the context of Balkan diplomatic activities not to have a written record of events, the Ambassador felt that a record of what he believed to be a very significant event should be retained.⁵⁶

⁵³ *Id.* at 80-81. Vershbow opined that the concern about a written record stemmed from the potential allied reaction to the "no instructions" response. As discussed in Chapter One, Section Two, the allies maintained the arms shipments in theory as a way to protect their troops, even though throughout the course of the arms shipments they too turned a blind eye. *Id.* at 81. The delicate positions of the United States and the allies as a result of this approach to the embargo required a "low profile" according to Vershbow and Talbot to protect everyone's interests.

⁵⁴ On May 6 or 7, 1994, Snobe Talbot had a conversation with Samuel Berger, the Deputy National Security Adviser. According to notes made by Vershbow of the conversation as it was related to him by Talbot, Berger believed that a written record of events would be "dynamic." However, the prevailing view still was that if a written record was made, there should only be one copy. Vershbow Subcommittee Dep. at 93, 95. Talbot also made reference to Jenome Walker being "disciplined" because of her role in the conveyance of the no instructions. *Id.* Walker has no recollection of having ever been disciplined because of her role in this matter. Walker Subcommittee Int. at 2.

⁵⁵ Galbraith Subcommittee Dep. at 50.

⁵⁶ *Id.* at 51.

At the DCM's suggestion, the Ambassador wrote a memorandum to the record. The Ambassador was wary of the confusion in Washington over his delivery of the "no instructions" response and felt that it might be in his best interest to create a written memorandum describing the precise recitation of the response.⁶⁰ Moreover, such a written record was not inconsistent with the direction of the Department which only precluded a cable report. Ambassador Galbraith recounted the events surrounding his conveyance of the "no instructions" response to President Tudjman on April 28 and April 29, 1994, as well as the subsequent conversations he had with policy makers in Washington during the first week of May. Ambassador Galbraith noted that Vershbow believed the situation was exactly where people in Washington wanted it to be and that Talbot concurred that the response was conveyed accurately.

The memorandum was signed and dated by the Ambassador and witnessed by the DCM. On the following day, as was his consistent pattern, the DCM told the [redacted] about the Ambassador's business, in this case the content of discussions as he knew them and the content of Ambassador Galbraith's memorandum to the file.⁶¹ The [redacted] concurred with the

⁶⁰ Id. at 52. Ambassador Galbraith garbours the confusion and concern in Washington to the information reported to the CIA by the [redacted] and the CIA's subsequent interpretation of that information. Id. at 51, 56.

⁶¹ Contrary to the allegations that Vershbow had disagreed with Ambassador Galbraith's delivery of the "no instructions" response, Vershbow testified that he came away from his discussions with the Ambassador feeling "satisfied that he [and Special Envoy Redman had] left it in the right place." Vershbow, Subcommittee Dep. at 115.

⁶² This conversation with the DCM was memorialized by the [redacted] in a lengthy cable to headquarters [redacted] May 7, 1994. During his Subcommittee deposition, Neitzke was unable to recall this particular conversation with the [redacted] in any detail. Neitzke Subcommittee Dep. at 184.

Ambassador's decision to create the memorandum.⁶² In their conversation, the DCM speculated that he thought policy makers in Washington were abandoning the Ambassador and the "no instructions" response. And, as was his consistent pattern, the [redacted] reported the speculations by the DCM. The [redacted] also attributed to the DCM the remark that "Washington never intended Croatia to allow Iran to bring in so many deliveries so quickly." By May 7, 1994, however, only one shipment had been delivered⁶³ by the Iranians and the regular flight of small arms from a variety of sources had yet to begin.

Throughout the month of May, the [redacted] and the DCM continued to speculate and comment upon the activities of the Ambassador, and the [redacted] continued to report those discussions to his headquarters as if they were matters of intelligence fact-finding. The [redacted] also continued to request clear guidance from his headquarters, which did not materialize until November 1994 when the DCI finally visited the region. At the same time the DCI cautioned the [redacted] about reporting on their colleagues within the embassy. This message apparently was directed toward the [redacted] at Embassy Zagreb. DCI Woolsey's Special Assistant, Janet Andres, admonished the [redacted] for the rumor and conjecture contained in his cables.⁶⁴ She explained to the [redacted] that such

⁶³ CIA headquarters had cabled the [redacted] to inform him of the DCI's meeting with Talbot and Christopher and his discussions with [redacted] and so he was aware that discussions had occurred in Washington. Unfortunately, the advice that [redacted] received was based on his convoluted reporting and the inaccurate interpretation at headquarters of that reporting. As a result, the [redacted] was told, per these discussions, there was no change in United States policy re: the arms embargo.

⁶⁴ Neitzke Subcommittee Dep. at 183.

⁶⁵ Memorandum to the File by the [redacted] Nov. 17, 1994. This is not the first time that the [redacted] had been admonished about his reports. In at least three cables

reports become part of the written record of events and if presented to Congress or another investigative body, would reflect an inaccurate picture of what was occurring at the Embassy.⁷ As subsequent events demonstrate, this is exactly what happened. ~~_____~~

A Pattern of Disconnects at the CIA

There were at least six major disconnects related to the delivery of the "no instructions" response either within the CIA or between it and other Executive Branch agencies. These miscommunications bred mistrust, suspicion, and false accusation against United States officials including the Ambassador. ~~_____~~

Disconnects Between CIA Washington and the _____

The first major disconnect was between CIA headquarters and the _____ the May 5 Talking Points for the DCI and the oral briefings of the DCI and the DDI focused solely on one issue: the propriety and appropriateness of the request by Ambassador Galbraith to the _____ to inform _____ that the United States had "no position" on the enforcement of the arms embargo. Neither the May 5 talking points nor the oral briefings specify that the Ambassador already had conveyed the "no instructions" response to President Tudjman's query about the United States reaction to the transshipment of arms through Croatia. The May 5 talking points also give no hint that the Ambassador had told the _____ of the "no instructions" response to _____ beginning in the first week of May that _____ was told to refrain from editorializing and commenting upon the actions of others at Embassy Zagreb. Nevertheless, the _____ continued to report the conjecture and assumptions presented to him by the DCI and the _____ officer without any substantive corroborating evidence. ~~_____~~

President Tudjman, nor do they mention the fact that in the face of the _____ refusal to convey a message to _____ the Ambassador asked the _____ to have _____ approach the Ambassador on the issue. ~~_____~~

Ultimately, the failure to resolve these disconnects contributed significantly to the _____ suspicions about the Ambassador and, subsequently, about Assistant Secretary Holbrooke. Based upon advice from _____, _____ believed that the "no instructions" response was a covert action.⁸ The DCI, in contrast, was concerned only that the use of the _____ not be used to convey policy.

Moreover, the Director was not made aware of the fact that the _____ had used the _____ fifteen days earlier to impart an inaccurate version of United States policy with respect to enforcement of the arms embargo. ~~_____~~

In fact, CIA headquarters had no interest in the response conveyed by the United States Ambassador. As _____ testified: "had the Ambassador not asked the _____ to communicate policy to the Government of Croatia, 'we probably wouldn't have been managing the Ambassador's activities at all.'⁹ In other words, she noted, "my principal responsibility was making sure that CIA personnel acted appropriately," not the Ambassador's activities.⁷ ~~_____~~

Moreover, the May 5 talking points failed to convey the nuances of what the Ambassador, acting on careful guidance from Washington, was doing by his "no instructions" ~~_____~~

⁷ See subheading "Disconnects Relating to the Law of Covert Action" in this same Section.

⁹ _____ Subcommittee Dep. at 77-78. ~~_____~~

[redacted] for example, was not interested in the nuances of the "no instructions" response: "I'd like to leave this area of questioning to the diplomats, as I'm not a diplomat, and I have not had diplomatic training. I'd like these subtleties to be explained by people who understand them better. . . . It's like asking somebody who is not a dentist to fill a tooth."¹⁴

Similarly, it appears that the oral briefings of the DCI and DDI omitted completely the actual response the Ambassador provided to the Croatian president on April 28 and 29. The DCI was not informed of the response by Ambassador Galbraith: "It wasn't our business to oversee Galbraith's communications with the Croatian Government unless he was involved in conducting a covert action of some sort, and this didn't come up or wasn't really on the screen. I think, on May 5, we were concentrating on what he had asked the [redacted] Had the "no instructions" response been discussed with the DCI, he could have assuaged the concerns of the CIA personnel who were raising legal questions about the Ambassador's actions. As the DCI himself explained:

In my judgment, very much because of President Bush's veto of the 1991 authorization bill for intelligence and the back and forth with Congress that occurred in the context of that veto, traditional diplomatic communications, including even the suggestion of a covert action by a United States diplomat to another country is -- does not itself constitute covert action. And certainly standing mute, even standing mute in such a way as to say you have "no instructions," and to walk or nod or anything like that, for a diplomat, for a State Department ambassador, in my judgment did not then and does not now constitute

¹⁴ Subcommittee Dep. at 82. As events unfolded, the failure by [redacted] to be as circumspect about questions of law as she was about questions of diplomacy and density created special problems for the [redacted]

¹⁵ Woolsey Subcommittee Dep. at 16.

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covert action."¹⁵

For almost six months, the [redacted] was left in a state of ignorance. Thus, the belief held by the [redacted] from May through November 15 that the United States Ambassador to Croatia was engaged in a covert activity was, in the words of the DCI, wrongly held.¹⁶

Disconnect Between the Director of Central Intelligence and the Deputy Secretary of State.

The second major disconnect was between the DCI and the Deputy Secretary of State. The DCI had taken up the matter of the use of the [redacted] in a telephone call with National Security Adviser Lake, and in person at the May 5 meeting with Secretary of State Christopher and Deputy Secretary of State Talbot. When the DCI was informed at the May 5 meeting that the Ambassador had conveyed a "no instructions" response to President Tudjman on April 28 and 29, Director Woolsey had no concern whatsoever about the legality of Ambassador Galbraith's actions.¹⁷

To the DCI and his subordinates, the fact that the [redacted] thought he had been requested to take direct action to facilitate the arms flow was the core issue to be resolved.¹⁸ Deputy Secretary Talbot, however, focused on the substantive message that was being communicated and not the means of the communication. Based on the DCI's account of the [redacted] report, Deputy Secretary Talbot was concerned that instead of "no

¹⁴ Id. at 21.

¹⁵ Select Subcommittee Deposition of Douglas MacEachin, Sept. 9, 1996, at 13 (hereinafter "MacEachin Subcommittee Dep."); Memorandum for the Record, May 5, 1994 (D. MacEachin, drafter).

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instructions." Ambassador Galbraith had responded in some other way that was inconsistent with his directions from Washington. Deputy Secretary Talbot's comments to the DCI about Ambassador Galbraith being told "early" that he was not to go beyond the "no instructions" response, were based on his misimpression (gleaned from his conversation with the DCI) that Ambassador Galbraith had not executed his instructions properly. Deputy Secretary Talbot told the DCI that he would call Ambassador Galbraith and reconfirm his instructions.⁴² He did so and was reassured that Ambassador Galbraith had indeed conveyed the "no instructions" message as directed.

The DCI, a former diplomat, was aware of the range of diplomatically expressive possibilities surrounding such a response. The DCI testified that such a response "can be heard and communicated different ways and can arise in different circumstances inside the U.S. Government. . . .⁴³ He elaborated:

[I]f they wanted, either the White House or the State Department wanted to have a new policy, but to have the Ambassador communicate that policy very subtly by saying, "I have no instructions," wink-wink, nod-nod, that is certainly a reasonable thing to do in diplomacy. . . .

[I]n the abstract, there may be some diplomatic reasons one wants to do things that way, and there's no -- no law against it as far as I know.⁴⁴

Disconnect Between the Director of Central Intelligence and his Subordinates.

The third major disconnect was between the DCI and his subordinates. The DCI did not

⁴² Id. at 19.

⁴³ Woolsey Subcommittees Dep. at 23.

⁴⁴ Woolsey Subcommittee Dep. at 42.

share the same levels of concern as did some of his subordinates about the ambassador asking the [redacted] to convey a message through [redacted]. The DCI was not at all critical of the Ambassador for having asked [redacted] for help.

I have said before, and I believe this is the case, I don't think it was improper for [the Ambassador] to ask the [redacted] what he asked him. But I do believe it was quite proper for the [redacted] to turn him down. And had personal relations between the two been highly cordial, that conversation might have gone very simply of his saying to the [redacted] "Can you give me a hand. . . ."

And [upon refusal] the Ambassador could conceivably have said, "Oh, I hadn't really thought of that. That is really fine. Don't worry about it."

That would have been the end of it. There is nothing wrong with ambassadors and [redacted] trying to get things sorted out and talking to one another. But if that had happened, this all may never have come up.

[redacted] however, was extremely alarmed by the request. The DCI's lack of

concern was not communicated to those who had briefed the DCI in preparation for the May 5 meeting, [redacted] who prepared the May 5 talking points) or to the [redacted]

[redacted] therefore, continued to ascribe nefarious motives to the Ambassador, which nourished the suspicions of the [redacted]

Disconnects at the CIA in the Aftermath of the May 5 Meeting.

The next significant communication gap occurred after the May 5 meeting. The [redacted] came to attach great significance to one particular sentence in a cable

he received describing the May 5 meeting -- yet that particular sentence was one that had not even come up in the meeting.

⁴⁵ Id. at 40.

On May 6, 1996, [redacted] Headquarters called the [redacted] regarding the DCI's meeting with Deputy Secretary Talbot.¹⁷ The DCI delegated the task of preparing the follow-up memorialization of the meeting to the DDI. Unfortunately, the DDI did not author the cable. The cable was prepared by staff of the Operations Directorate (the "DO"), who had not been represented at the May 5 meeting.¹⁸ The DO staff cable drew upon the DDI's memorialization of the meeting, but improvised an addition at the end that had neither been discussed at the May 5 meeting nor included in the DDI's memorialization. This improvised addition was the prospective announcement that if any change in policy occurred, the recipients of the cable would be kept informed.¹⁹

Policy was not discussed at the May 5 meeting. Of course, there was no reason to do so since the policy makers were clear on the policy, and the DCI had not raised the issue - or indicated in any way that he had a concern about policy. The DCI did not express either in the meeting or afterwards any intention of keeping anyone informed of anything, and the DCI had not even read, let alone cleared, the outgoing cable. Accordingly, the DCI was not aware that the [redacted] was anticipating that he would be informed by [redacted] Headquarters of the Administration's policy regarding enforcement of the arms embargo. According to Director Woolsey:

As it became clear, later in May and into June, that the U.S. Government was essentially acquiescing in the shipments through, there wasn't any particular problem at that point that I knew of that I had to solve with respect to the [redacted]. So basically I don't think I thought about the [redacted] that much late in May, early in

¹⁷ MacEachin Subcommittee Dep. at 78.

¹⁸ Id. at 76-77.

June, [redacted] however, was consumed with worry about the [redacted] Headquarters led him to believe that the United States policy was to enforce the arms embargo against third parties. Ambassador Galbraith told him the United States policy was to neither to object nor to support the shipments of arms to Bosnia by third parties. The [redacted] believed [redacted] Headquarters. He therefore concluded that at the very least, the Ambassador was not being truthful and perhaps, the Ambassador was acting illegally. The [redacted] report is notable both for expressing his suspicions and for seeking fulfillment of the promise made in the May [redacted] cable that he would be kept informed of policy changes. That [redacted] testified that: "what was conveyed to me was that . . . they would inform me when there was a policy change. . . . [T]he definitive line was the bottom paragraph, which was there was no change in policy. We will inform you when there is. That was that."²⁰

Disconnects Relating to the Law of Covert Action.

A fifth miscommunication occurred regarding the legal interpretation of the Ambassador's activities. [redacted] was not a lawyer, but she rendered a legal opinion to the [redacted] that assistance from third countries to Bosnia through Croatia would constitute a covert action. This incorrect legal advice ultimately led the [redacted] to conclude that the "no instructions" response suggested a covert action was underway.²¹ In depositions, [redacted] admitted, "[h]aving refreshed my recollection, I can say

¹⁹ Woolsey Subcommittee Dep.

²⁰ Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 41 (hereinafter "Subcommittee Dep. 7").

that there is no evidence on this cable that I consulted with a legal officer. She did not consult with anyone from the CIA General Counsel's office about legal matters. As previously quoted, the DCI, upon receiving an opinion from the General Counsel's office regarding President Bush's veto of the 1991 Intelligence Authorization Act, fully understood that delivery of the "no instructions" response to the Government of Croatia was not a covert action. In fact, the DCI testified that he "was certainly not under the impression in early May that silence on part of an American diplomat, however, whatever body language was put with that silence, or saying 'I have no instructions,' would constitute covert action, even though I hadn't at that point focused on the '91 veto."

Unfortunately, the [redacted] was left to believe [redacted] analysis that a covert action had, at the very least, been considered. If she had not rendered legal advice, or if the advice had been corrected, the [redacted] might have refrained from reporting conversations and incidents that he believed were suspicious. After receiving a report about the May 5 meeting, the [redacted] saw that Iranian arms were flowing, so that told me something had happened. Of course, I knew something had happened. The question was whether... it was a potential illegality, based on previous guidance. The "previous guidance" to which the [redacted] referred was the inaccurate legal guidance provided in [redacted] cables.

¹⁰ [redacted] Subcommittee Dep. at 40.
¹¹ Woolsey Subcommittee Dep. at 21.
¹² [redacted] Subcommittee at 42.
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Leaving Me [redacted] in the Dark

The CIA missed another opportunity to inform the [redacted] about the status of United States policy on the arms embargo after a May 20, 1994 meeting at which the DCI learned that United States policy was not to enforce the arms embargo against Bosnia.

There was a meeting sometime in May, I believe... Apparently there was a meeting in which the principals discussed in some fashion whether to press the Croats to stop deliveries from Iran, and that discussion would seem to suggest that we were not at that time pressing the Croats to stop deliveries.

So probably... that could well have been one of the factors that led me, indeed all of us at the Agency, to believe that the policy of the embargo against Iran was not at that time being pressed or really enforced by the United States.¹³

Unfortunately, not "all" of the individuals at the CIA knew this to be the United States policy. The [redacted] was not informed for six more months.

Thus, the [redacted] suspicions in the aftermath of May 5 appear to have resulted from his multiple handicaps and confusions. He had been misled about the law by his immediate superior at headquarters. Neither the fact, nor the nuances, of the Ambassador's "no instructions" response had been communicated to the DCI for clarification with the State Department. Most important, the guidance cited back led the [redacted] to anticipate getting further information on something which the DCI did not intend to provide.

Summer 1994 at the CIA
The [redacted] continued to harbor unfounded suspicions about

¹³ Woolsey Subcommittee Dep. at 26-27; An NSC list of documents briefed to Subcommittee staff lists a May 20 principals meeting. (This list was prepared for the Select Subcommittee by members of the NSC.) In all likelihood, a representative from the Department of Defense as well as of the CIA was at that meeting.
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the Ambassador's actions on the basis of these communications disconnects. In Washington, during the summer of 1994, discussion of Bosnia policy shifted to Capitol Hill, where the Congress debated and subsequently adopted legislation regarding the arms embargo.¹⁴ As the DCI testified: "The events of early May were, for all practical purposes, I think, overtaken by the passage of Nunn-Mitchell."¹⁵ The Deputy branch chief also understood that "Nunn-Mitchell prohibited, as far as I understand it, enforcement of the arms embargo against the Bosnians," including weapons from Iran.¹⁶

The degree to which the [redacted] was either misinformed or not informed about the facts, the policy and the law undoubtedly contributed to the quality of his reporting. As discussed elsewhere, the lack of guidance provided to him and the tendency of both the [redacted] and the Deputy Chief of Mission to rely upon rumor and gossip in addition to intelligence was an unfortunate combination. Clearly, CIA headquarters must devote more attention to the dissemination of legal advice and to the need to respond to requests for guidance from the field. The reporting from Zagreb came up through CIA headquarters to the DCI's Executive Assistant, who explained: "I thought there were grave questions about whether he was an accurate reporter of what was actually going on. . . . He [redacted] was not one of the old hands, put it that way. The smaller stations, they tended to be younger officers with less experience."¹⁷ The DCI's Executive Assistant further explained:¹⁸

¹⁴ See the separate section on Congressional action: Chapter One, Section Three.

¹⁵ Woolsey Subcommittee Dep. at 71.

¹⁶ [redacted] Subcommittee Dep. at 71.

¹⁷ Andres Subcommittee Dep. at 25.

one of my concerns . . . [about] information coming back through traffic from the [redacted] back to Washington [was] that it may not accurately reflect what really was going on so [it] was creating the wrong impression about what was going on and because -- again, I did not know the [redacted] personally, but just the tone of some of the communications suggested to me that he might not be, have the best judgment and be the most solid person. So that was certainly a concern."¹⁹

¹⁹ Id.

THE DEPARTMENT OF DEFENSE AND THE APRIL 1994 RESPONSE

The Department of Defense generally, and the defense attaches in Embassy Zagreb particularly, dealt with delivery of the "no instructions" response in a far more restrained way. In so doing, they avoided the confusion and misinformation which marked the Central Intelligence Agency handling of the matter. In large part, this was due to strict adherence to reporting only intelligence and not rumor and gossip, to accepting the fact that policy making is the bailiwick of the other Federal agencies; to a general understanding of the law; and perhaps most important to a willingness to accept the word of colleagues over those of foreign officials and intelligence contacts.

Although Department of Defense personnel did not participate in the formation of the "no instructions" response to the Croats,¹ the Department did receive information regarding the events leading up to and following Ambassador Galbraith's conveyance of the response to President Tudjman on April 28 and April 29, 1994. Whereas the [redacted] refused to acknowledge delivery of the response or accept its consequences, the Defense Attache continued to perform his duties and avoided reporting on embassy personnel and speculating about their motives. ~~_____~~

Neither the Defense Attache nor his superiors at the Department of Defense sought to thwart the consequences of that response, or believed that the role in delivering the response by

¹ Select Subcommittee Deposition of Peter Tamoff, Sept. 13, 1996, at 53 (hereinafter "Tamoff Subcommittee Dep.").

Ambassador Galbraith or any other United States official suggested a covert action without the requisite findings. In fact, when presented with allegations of possible United States covert activity, Department of Defense personnel repeatedly denied such allegations and reported as such through their respective channels.²

Information Available to the Department of Defense

The Department of Defense was privy to the same intelligence that was available to the other executive branch agencies during the Spring of 1994. Cable traffic [redacted] and intelligence reports were created by or provided to the Department of Defense on a routine basis.³ To deal with the constantly changing situation in the Balkans, the Department of Defense created the Bosnian Task Force within the Secretary's office. The Defense Department would receive

¹ Accusations of possible United States covert activity arose in a variety of circumstances. The Defense Attache in Paris routinely heard allegations that the United States was conducting all types of covert activities. General Rose, the British commander of UNPROFOR also heard such rumors which he passed on to his American [redacted] liaison. The Defense Attache in Zagreb also received intelligence reports of alleged United States activity. There were also repeated sightings of "American military personnel" training the Bosnian Muslims which turned out to be American mercenaries unassociated in any way with the United States government or military personnel stationed in the region. In each of these cases, Department of Defense personnel denied the rumors and requested specific evidence to corroborate the claims; none was ever forthcoming. ~~_____~~

² In addition to cable traffic provided by the defense attaches and military commands around the world, the Defense Department received intelligence from such sources as the Department of State (Secretary's Morning Summaries), the Central Intelligence Agency (National Intelligence Daily, Balkan Task Force and NSA reports), and the National Security Council (through Principal's Meetings and NSC summaries). The Department of Defense also provided its own intelligence assessments such as the Defense Intelligence Report and briefings to other Executive Branch agencies.

information directly from the region from U.S. Special Envoy Charles Redman who made it a point to contact the Department of Defense about matters wherever possible:

In light of the available information, the Department of Defense was fully capable of assessing the situation in the region and evaluating a potential threat to United States troops serving there.⁷ The Department used this information to formulate its policies with regard to UNPROFOR, participation in Operations Deny Flight and Sharp Guard, and the coordination of humanitarian aid air drops. The Department of Defense also used this vast array of information to prepare the further deployment of United States troops to the area in the event peace should be established in the region or in the event that UNPROFOR should be forced to withdraw.

The general availability of information about the region allowed Department of Defense personnel to keep fully informed about attempts by third countries to circumvent the arms embargo and supply the Bosnian Muslims. The Department of Defense, through a variety of intelligence sources, also knew that the Iranians were eager to aid the Bosnian Muslims in order to increase their stature within the Islamic community and within Bosnia.

⁷ Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 6 (hereinafter "Redman Subcommittee Dep. 7"). Ambassador Redman would speak generally with Deputy Assistant Secretary Joe Kruszal or Under Secretary Walt Stocome. *Id.* Contact with these gentlemen would ensure that the Secretary and the Chairman of the Joint Chiefs of Staff would be apprised of any new developments.

⁸ Prior to the deployment of JFOR, the United States had approximately 300 service personnel serving in various capacities in Croatia.

The Department of Defense Learns of the April Inquiries.

The Defense Attache at Embassy Zagreb was one of the first United States officials to be contacted by the Croats regarding the reestablishment of the formal pipeline.⁸ The Defense Attache reported in a cable dated April 25, 1994, an April 18, 1994 conversation he had with Defense Minister Susak. The Defense Attache reported in detail what Defense Minister Susak had told him and that Susak was seeking the United States position on the resumption of the formal pipeline. The Defense Minister needed a response in order to lay to rest the 1992 demarche issued to Croatia by the United States regarding an Iranian arms flight.⁹ The Defense Attache reported further that the Croats and Bosnians had been discussing this matter for quite some time, and the establishment of the Federation was seen by the two parties as the necessary catalyst for the resumption of the arms pipeline. The Defense Attache also commented that despite Defense Minister Susak's interest in the United States position, the Croats were very likely to restart the formal pipeline even without United States acquiescence.¹⁰ The Majority has suggested that Ambassador Galbraith put together the pipeline. The Defense Attache reporting demonstrates that this suspicion is unfounded.

⁸ For a complete discussion of the Defense Attache's contacts with Croatian officials, see Chapter Two, Section One.

⁹ Department of Defense Cable, [redacted] Apr. 25, 1994. [redacted]

¹⁰ *Id.* The Defense Attache reported that since Federation talks on March 12, 1994, the Croats and Bosnians had been discussing the resumption of the formal arms pipeline. Of initial importance to the Bosnians was the transshipment of material that had been stockpiled by Croats during the hostilities that had been intended for the Bosnians. *Id.* These would be the first shipments through the reestablished pipeline.

After the No Instructions Response: The Department of Defense Changes Nothing.

The Defense Attache informed Ambassador Galbain about the Susak meeting and was generally aware that the Ambassador was seeking guidance to respond to the Croatian request.⁶ Unlike [redacted] personnel who reported on such policy matters and other intra-embassy conversations, the Defense Attache did not prepare reports on these discussions or the Ambassador's diplomatic activities.⁷ Through intelligence reporting and other sources, however, the Department of Defense became aware that the Croats had decided to proceed with the reestablishment of the pipeline. [redacted]

In early May 1994, Secretary of Defense Perry asked about the amount of weapons that would be arriving in the region and the extent to which the allies were aware of the shipments,⁸ based on reporting he received on Iranian arms shipments from the Defense Attache Zagreb.⁹ Secretary Perry never raised the diplomatic issue with the Central Intelligence Agency¹⁰ or any

⁶ Select Subcommittee Deposition of LtCol. Richard Herrick, Aug. 20, 1996, at 19, 25 (hereinafter "Herrick Subcommittee Dep. ").

⁷ Id. at 33. The Defense Attache explained that the circumstance surrounding the "no instructions" response were "purely . . . political" and not something he would report through his channels. Id.

⁸ Herrick Subcommittee Dep. at 42.

⁹ Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 5-7 (hereinafter "Woolsey Subcommittee Dep. "). The DCI had no recollection of discussing this matter at all with the Secretary. Id. at 5. The Defense Attache recalls, however, being told by [redacted] that DCI Woolsey had discussed the matter with Perry. Id. at 39-40. Because the Defense Attache understood the "no instructions" response to be a policy matter, and he had received no inquiries about it from his headquarters, he assumed that Secretary Perry was well informed and there was no need for him to be further involved. Id. at 40. [redacted]

other Executive Branch agency.¹¹ Nor did Secretary Perry ever raise concerns that the response amounted to a covert action.¹² The [redacted] speculated that the failure by the Defense Attache and the Department of Defense to share in his concern about a possible covert action reflected a lack of knowledge. He reported on May 12, 1994 that the Department of Defense had contacted the Defense Attache regarding the arms shipments,¹³ and speculated that the Department of Defense was "in the dark."¹⁴ The speculation was not based on any contacts with the Department and contradicted his own earlier reporting.¹⁵ [redacted]

The [redacted] reports Department of Defense "Concern." [redacted] Although the Minority found no evidence in the thousands of pages of documents

provided by the Department of Defense to suggest concern about the United States response to Croatia's reestablishment of the arms pipeline, the [redacted] took it upon himself to continue reporting throughout the summer 1994 that the Department of Defense was concerned

¹¹ Secretary Perry could have raised the issue in a Principal's Meeting at the National Security Council on 1 May 20, 1995. At that meeting the question was raised if anything should be done about the Iranian arms shipments but the topic was jibed and never brought up again. If the Secretary had as much concern about the matter as the [redacted] estimated, this would have been the most opportune time to raise the matter. It is also of note that the DCI failed to raise the matter at that meeting. [redacted]

¹² Woolsey Subcommittee Dep. at 7.

¹³ [redacted] May 12, 1994. [redacted]

¹⁴ When reporting to headquarters earlier in the week regarding what he believed to be happening at Embassy Zagreb, the [redacted] noted that the Defense Attache had reported his conversations with Susak through his channels. [redacted]

about this policy and its results. In his cables, the [redacted] reported general comments made to and by other United States officials regarding the Department of Defense in a way that made it appear that the Department of Defense, like the CIA, disagreed with the United States position in the region. This is simply not true. ~~2~~

For instance, the [redacted] reported extensively on meetings among Embassy officials prior to a summer visit by Secretary of Defense Perry to the region. According to the [redacted] he received a telephone call from the Department of Defense inquiring about the number of arms shipments the Bosnians were receiving and the frequency of those deliveries.¹⁹ The [redacted] noted that this was an unusual request which confirmed his speculation that the Department did not know what was going on in the region. Actually, Embassy Zagreb was the premier source for intelligence on these shipments and given that they did impact on the military situation in the region, it would be natural for the Department to want the most current information prior to the Secretary's trip. ~~3~~

The [redacted] also recalls that the arms shipments might be raised by Defense Minister Susak in his meetings with Secretary Perry. This issue was addressed by the Defense Attache in a meeting with the [redacted] and the Ambassador prior to the Secretary's arrival.²⁰ The [redacted] dutifully reported this conversation, as still more proof that the Defense Department was in the dark on matters and that the Ambassador was preventing the Defense Attache from responding. In fact, the Ambassador offered to discuss the shipments with

¹⁹ Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 76 (hereinafter "Select Subcommittee Dep. 7").
²⁰ Herick Subcommittee Dep. at 39.

Secretary Perry personally which is hardly indicative of a desire to keep matters from the Department of Defense. ~~4~~

Of course the Department of Defense would be concerned about any arms shipments reaching the region and their possible impact on the war and United States personnel in the region. This concern does not translate, however, into a concern about the April 1994 response. In at least three cables during the summer 1994, the [redacted] expressed the view that the Department of Defense did not know what United States policy in the region was, although he had absolutely no first hand evidence that this was the case. ~~5~~

Furthermore, even if the Department of Defense was unaware of the policy response, it was not the responsibility of the [redacted] to make an issue of something that the Department of Defense had not chosen to raise on its own. This type of second-hand reporting fueled the erroneous speculation at the CIA that unfounded covert activities were occurring without consulting the CIA or the Department of Defense; speculation which ultimately led to the IOB investigation and the establishment of this Select Subcommittee. ~~6~~

²¹ The [redacted] attributes a statement to the Ambassador that he wished the CIA and DOD would get on board with the policy in the region. The Ambassador has no recollection of this comment nor does the Defense Attache, Herick Subcommittee Dep. at 45, but if the Ambassador did make the comment, it would suggest that the Ambassador did not want to keep matters from these agencies. He repeatedly discussed ongoing events with the [redacted] who reported virtually everything that was said to him, and he discussed matters with the Defense Attache who had first hand involvement in the earlier April exchanges as well. No where except in the [redacted] comments is there a suggestion that the Department of Defense was not aware generally of events as they unfolded or that it was overly concerned about them. ~~7~~

Rumors that the United States Was Involved in Covert Action.

Throughout the time in which the United States was involved actively in the Balkan crisis, allegations of covert action to arm the Bosnian Muslims emerged.²¹ The allegations varied from air drops of weapons and uniforms to personnel training; none of these allegations were credible. Department of Defense personnel often encountered these allegations and always denied their validity.²² It is ironic that while the [redacted] was asserting that the Department of Defense also suspected that covert activity was occurring in the region, the Department of Defense was doing everything it could to dissuade such thinking. General Wesley Clark, for example, who was responsible for the formulation and coordination of all policy for the Department of Defense, patently denied that the United States could be involved in such activity.²³ Within the Department, even those who disagreed with the United States Government view of the Bosnian Muslims as the wars' primary victims did not believe that the United States was involved in covert activity.²⁴

²¹ Allegations of United States covert activity most frequently appeared in the European press. In May 1994, Le Canard Enchaîné reported that the United States had been conducting night air drops to the Bosnian Muslims and that French troops had "closed their eyes" to such activity because it was so limited. No such activity occurred, however, the only air drops conducted by the United States being humanitarian aid relief coordinated within the international community.

²² [redacted]

²³ [redacted]

²⁴ SSCI Deposition of Gen. Wesley Clark, June 24, 1996, at 24-35.

²⁵ LtCol. John Sray served as G-2 to General Rose the UNPROFOR commander in 1994. Although Sray believed that the United States favored the Bosnian Muslims, he did not believe

Thus, the Department of Defense did not take an active role in the diplomatic exchange in April 1994, nor set out on a course to undermine the response or the policy makers who instituted it. Where there were legitimate questions about weapons shipments or the level of allied awareness of the shipments, those questions were raised with those most knowledgeable; namely the [redacted] whose intelligence reporting on the arms deliveries into Bosnia was extensive and relied upon heavily. Unlike the CIA, the Department of Defense did not undertake to report on second and third hand conversations or speculation to imply that covert activity was occurring in the region. The Department of Defense went about fulfilling its mandate of collecting intelligence and providing troop support and security to the region.

²⁶ [redacted] that favoritism extended to covert activity. Further, he and General Rose, who is British, did whatever they could to dispel such rumors when they arose. Select Subcommittee Dep. of LtCol. John Sray, Aug. 29, 1996, at 15-16 (hereinafter "Sray Subcommittee Dep.").

THE MAY 1994 CONVOY INCIDENT

The overriding objective on the ground in Bosnia in 1994 and throughout most of the war was to provide food, clothing and medical supplies to the Bosnians. The primary means of delivering these supplies was relief convoys. The convoys numbered in the thousands and were often stopped by Bosnian Croats to harass the Muslims. Often, the office of the United Nations High Commissioner on Refugees which administered the United Nations convoy relief operation would contact United States Government officials for assistance in gaining the release of detained convoys. On many occasions, United States officials would intercede to expedite the progress of these convoys. Intelligence and other sources raised suspicions about whether some relief convoys may have carried weapons in addition to humanitarian supplies. The Minority believes that some convoys did carry weapons, but found no evidence to suggest that any United States Government official knowingly assisted in the relief of such a convoy.

On May 13, 1994 The Washington Post published two front page stories related to Bosnia.¹ The first recounted the Senate's two narrow votes to unilaterally and multilaterally lift the embargo against the Bosnian Muslims. The second story reported details of the first delivery of an Iranian arms shipment to the Bosnian Muslims, including the plane's landing in Zagreb and the weapons passage into Bosnian territory. The account also detailed Bosnian attempts to have

¹ Senate Votes Arms for Bosnia, The Washington Post, May 13, 1994, at A1; Thomas Pomfret, Iran Ships Explosives to Bosnian Muslims, The Washington Post, May 13, 1994, at A1 (hereinafter "Pomfret").

United States officials in Vienna intercede on their behalf when the convoy carrying weapons was stopped by the Bosnian Croats.²

According to the Washington Post article, an Iranian arms flight arrived in Zagreb and was quickly off loaded to a convoy for transport to Bosnia by Croatian officials. The convoy traveled without incident through Croatia but was halted in Tomislavgrad, located just inside Bosnia. Apparently Bosnian Croat forces stopped the convoy because they wanted a portion of the weapons on board. Bosnian officials sought to use diplomatic pressure to obtain the convoy's release. The article reported that Bosnian officials contacted the United States Embassy in Vienna on May 10, 1994, seeking assistance with the problem.³ The call came to Embassy Vienna because it was hosting ongoing negotiations between the Bosnian Croats and Muslims regarding the terms of the Federation Agreement,⁴ and it was logical to seek a solution at an event where all the parties were convened. The article reported that the Bosnians sought the Croatian government's assistance after having no success with the United States embassy. The Croatian government intervened and finally arranged for the passage of the convoy.⁵

The article does not suggest United States involvement in the convoy. To the contrary, the article explains that the United States could do nothing to facilitate its release.⁶ When the article was received at Embassy Zagreb, however, the DCM and the ~~_____~~ began

² Pomfret at A13.

³ Id.

⁴ Id.

⁵ Id.

⁶ Id.

speculating on who had been contacted about the convoy in Vienna. The [redacted] coupled the speculation with indications that the Bosnians may have placed requests to release the convoy to Embassy Zagreb and reported to [redacted] headquarters the DCM's speculation that Special Envoy Redman may have intervened on behalf of the arms convoy. The report fueled suspicions at the CIA that certain United States officials were engaged in covert activity to arm the Bosnian Muslims. Ultimately, these suspicions regarding the convoy were elevated to a sufficiently high level to comprise part of the investigation undertaken by the Intelligence Oversight Board in November 1994. [redacted]

The Minority concludes that Special Envoy Redman did not intervene knowingly to have an arms convoy released. Some circumstantial evidence suggests that Special Envoy Redman may have made a call from Vienna regarding a convoy during the first week of May 1994. The source of that evidence, however, testified that Special Envoy Redman had no knowledge or awareness of any arms on the convoy.⁷ Further, no evidence of any kind exists to suggest that Ambassador Galbraith or any other United States personnel facilitated the release of this convoy or any prior or subsequent arms convoys.

⁷ Special Envoy Redman's Intelligence Assistant testified before staff of the Senate Select Committee on Intelligence that Special Envoy Redman received word that a blocked convoy was the reason for the breakdown of the negotiation talks. Special Envoy Redman suggested to the United States delegation that perhaps he should make a call to have it released in order to allow the negotiations to proceed. Testimony of [redacted] Senate Select Committee on Intelligence, May 31, 1996. [redacted] has no firsthand knowledge of Special Envoy Redman's call, but within hours, the talks resumed and there was no more discussion about a convoy, so she assumed he had acted. *Id.*

Convoys to Bosnia.

Virtually every person interviewed by the Select Subcommittee who had been stationed in or operated out of Embassy Zagreb, testified that the issue of humanitarian convoys was one they dealt with on a daily basis.⁸ Humanitarian relief convoys were virtually the only way supplies and material could reach the besieged Bosnian Muslims. As a result, ensuring the safe and continuous passage of convoys through foreign territory was a large part of any negotiations in the region.⁹ During 1993, for instance, Ambassador Galbraith demarched the Croats regarding their lack of enthusiasm for helping humanitarian relief convoys. It was essential to areas such as Tuzla and Sarajevo that humanitarian and commercial convoys be allowed into Bosnia.¹⁰ The success of these convoys depended in large measure on Croatian willingness to pressure the Bosnian Croats to allow blocked convoys to pass.¹¹

⁸ See Select Subcommittee Deposition of Peter Galbraith, Aug. 19, 1996, at 133 (stating that convoys were a regular business for embassy [Zagreb]) (hereinafter "Galbraith Subcommittee Dep."); Select Subcommittee Deposition of Thomas Mithnach, Aug. 14, 1996, at 15 (explaining that a typical day in 1994 would find him spending a couple hours a day on the humanitarian situation including how many convoys were moving) (hereinafter "Mithnach Subcommittee Dep."); Select Subcommittee Deposition of Lt. Col. Herrick, Aug. 20, 1996, at 100, 132 (noting his involvement in getting convoys released sometimes twice a month during 1993 and 1994) (hereinafter "Herrick Subcommittee Dep."); Neitzke Subcommittee Dep. at 247 (noting that from 1993 on, one of the more frequent topics with the government of Croatia was trying to get them to intervene . . . to allow passage of . . . relief convoys . . .).

⁹ Galbraith Subcommittee Dep. at 133.

¹⁰ *Id.* Ambassador Galbraith explained that commercial traffic was essential to the reestablishment of these communities. *Id.*

¹¹ Neitzke Subcommittee Dep. at 247.


As a result of this near constant diplomatic activity regarding convoys, United States personnel in the region, particularly those in Embassy Zagreb, became so accustomed to handling requests about convoys that the May 1994 convoy was not distinguishable from other convoys.¹² No one gave the convoy any thought until the Intelligence Oversight Board launched its investigation into what role, if any, United States personnel may have had in facilitating its release.¹³

The May 1994 Convoy and Embassy Zagreb

At some point during the first week of May, Ambassador Biserta Turkovic, the Bosnian Ambassador to Croatia, contacted Ambassador Galbraith and requested his intervention with the Croatian government to facilitate the release of a convoy.¹⁴ She explained to the Ambassador


¹² Herrick Subcommittee Dep. at 100-04 (noting his surprise when he learned during Senate testimony that the convoy was a concern); Neitzke Subcommittee Dep. at 383 (explaining that the Bosnian Ambassador's hysterical state was the only reason the convoy was memorable); Select Subcommittee Deposition of Charles Redman, Aug. 27, 1996, at 127 (indicating that this convoy made no impression on him until others began asking about it months later).

¹³ Redman Subcommittee Dep. at 127-28.

¹⁴ Galbraith Subcommittee Dep. at 131; Neitzke Subcommittee Dep. at 248.  Select Subcommittee Dep. at 127-28; Herrick Subcommittee Dep. at 104. The Majority Report asserts that Ambassador Turkovic had attempted to convince the U.S. Ambassador to Bosnia, Victor Jacobovich, to join her in the convoy but that he declined the invitation. See Majority Report at 136. While Ambassador Jacobovich testified that Ambassador Turkovic had asked him to join a convoy, he suggested that "I'm not sure we're talking about the same thing. Sas Select Subcommittee Deposition of Ambassador Victor Jacobovich, Aug. 29, 1996, at 58 (hereinafter "Jacobovich Subcommittee Dep. "). He further testified that he is not sure whether the convoy ever traveled to Bosnia. The convoy Ambassador Jacobovich described was to have traveled from Zagreb to Tuzla. Its route was to have been east through the Slavonia region of Croatia then south through a small stretch of Serb-controlled and then Federation territory to Tuzla. *Id.* at 59-61. The convoy led by Ambassador Turkovic in May, on the other hand, was stopped in

that her convoy was trapped between the Bosnian Croats and Bosnian territory.¹⁵ Ambassador Turkovic expressed hope that the Ambassador could convince the Croatian government to persuade the Bosnian Croats to let the convoy pass.

Ambassador Galbraith did not intervene on the Bosnians' behalf.¹⁶ Although no tangible evidence had been presented to the Ambassador suggesting that the convoy may have been carrying arms, he believed that arms may have been part of the cargo and did not want to be involved.¹⁷ Ambassador Galbraith had become aware that an Iranian cargo plane had landed at Zagreb airport¹⁸ and he reasoned that if the convoy had originated with that shipment, he would be overstepping United States policy on these shipments.¹⁹ He believed that his involvement in such a convoy would give the appearance of United States complicity with the arms shipments which contravened the policy response he and Special Envoy Redman had just delivered to

¹⁵ Tomislavgrad, which is in Herzegovina, near the Croatian border. A knowledge of geography would demonstrate that the convoy that Ambassador Jacobovich was asked to lead could not be the same one about which Ambassador Turkovic called the U.S. embassy in May. 

¹⁶ *Id.*

¹⁷ Galbraith Subcommittee Dep. at 133; Select Subcommittee Interview of Anthony Harrington, July 25, 1996, (noting that the IOB found no evidence to suggest that Ambassador Galbraith had intervened to release the convoy).

¹⁸ Galbraith Subcommittee Dep. at 133.

¹⁹ Ambassador Galbraith had received press inquiries prior to the publication of the Washington Post article and these journalists had informed him of the Iranian cargo flight. *Id.* Based on this information, Ambassador Galbraith deduced that the convoy may have resulted from the Iranian flight. *Id.*

²⁰ *Id.* at 138-39.

President Tudjman.²⁹ Ambassador Galbraith did not want allegations suggesting that the United States was urging the passage of weapons, as that was not the intended policy position.³¹

The media became very interested in the convoy story.³² Because the affair was thoroughly reported in the media it was discussed in the country team meetings. Numerous journalists contacted the embassy for the United States reaction to the Iranian cargo flight and Ambassador Turkovic's convoy.³³ The Ambassador and the public affairs officer simply responded "no comment," because they lacked knowledge of the incident. Once the media interest in the story subsided, the embassy had no further discussions about or involvement: "... all the convoy."

Special Envoy Redman's Contact with the May Convoy

Special Envoy Redman was in Vienna, Austria during the first week of May negotiating with the Bosnian Croats and the Bosnian Muslims on various aspects of the Federation. During one of the negotiation sessions, the process stalled and the delegations departed.³⁴ The U.S. delegation learned subsequently that the breakdown was the result of a convoy being blocked by

²⁹ *Id.*

³¹ *Id.*

³² Howace Subcommittee Dep. at 40.

³³ *Id.* at 47; Galbraith Subcommittee Dep. at 133.

³⁴ Select Subcommittee Interview of [redacted] Aug 21, 1996, at 1 (hereinafter "[redacted] Subcommittee Int.>").

the Bosnian Croats.³⁵ In order to proceed with the negotiations, the Bosnian Muslims asked Special Envoy Redman to get the convoy released.³⁶ Special Envoy Redman does not recall intervening on behalf of the Bosnian Muslims to have a convoy released,³⁷ but soon after the request was made the talks resumed and there was no more discussion of convoys.³⁸

Neither Special Envoy Redman nor any of his staff had any knowledge that the convoy might have contained arms.³⁹ Special Envoy Redman's only concern was the effect the blockade was having on the negotiations and the need to remove the impediment. Special Envoy Redman had dealt with convoy issues in the past while negotiating the winter relief efforts in Bosnia.⁴⁰ Special Envoy Redman relied on the mechanisms created by the UNHCR to monitor the flow of convoys and what they contained,⁴¹ he concentrated his efforts on obtaining

³⁵ *Id.*

³⁶ *Id.*

³⁷ Redman Subcommittee Dep. at 127-28.

³⁸ [redacted] Subcommittee Int. at 1.

³⁹ *Id.*; Redman Subcommittee Dep. at 127, 129.

⁴⁰ Redman Subcommittee Dep. at 128-29.

⁴¹ According to officials with the UNHCR, convoys had to be cleared at least one week in advance by all parties of whose territory the convoy crossed. Minority Staff Telephonic Interview of Anne-Willem Bijlerveld, Aug. 1, 1996, at 1 (hereinafter "Bijlerveld Minority Int."). At each checkpoint along the route, the convoy could be subjected to a full or spot inspection. *Id.* The convoys often would be blocked until a settlement conducive to all parties was reached which often meant the splitting of the convoy's cargo. *Id.* The mercantile nature of the warring parties and individual security guards made the issue of convoys a daily battle for UNHCR and those working to facilitate convoy traffic. *Id.*

guarantee that the convoys could flow unimpeded.³² Special Envoy Redman and his diplomatic counterparts had neither the mandate nor the time to determine what was contained on each convoy entering Bosnia.³³

Reporting by the [redacted]

On May 14, 1994, the [redacted] reported to his headquarters about a conversation he had with the DCM concerning the Washington Post article. During this conversation the DCM informed the [redacted] of the "hysterical" telephone call Ambassador Turkovic had placed to the Embassy.³⁴ The DCM told the [redacted] that Ambassador Turkovic wanted Ambassador Galbraith to intercede with the Croatian government, but he refused to do so.³⁵ The DCM also told the [redacted] that Special Envoy Redman had been contacted in Vienna.³⁶ The DCM believed that someone had intervened to have the convoy released and it was likely

³² Redman Subcommittee Dep. at 128-129.

³³ Id. at 133. Special Envoy Redman explained that neither he, the European president, or the foreign ministers could determine if humanitarian relief was the only thing on the convoys; such things fell under the control of the UNHCR. Id. In May 1994, for example, there were 308,000 people affected by the war in the Southern region of Bosnia to which this convoy was headed. In that month alone almost 2,600 metric tons of food were delivered by UN and privately sponsored convoys. In the midst of the difficult Balkan negotiations, it would have been virtually impossible for the Special Envoy or any other diplomat to determine what one particular convoy contained on a given day.

³⁴ Neitzke Subcommittee Dep. at 248; [redacted] Subcommittee Dep. at 127-28.

³⁵ [redacted] Subcommittee Dep. at 127-28. In his Subcommittee testimony, the DCM was noncommittal as to whether he in fact said this to the [redacted] Neitzke Subcommittee Dep. at 383.

Special Envoy Redman.³⁷ The DCM did not explain the source of his belief that Special Envoy Redman or the United States had intervened despite the fact that the Washington Post asserted that no United States official helped to satisfy the Bosnian request.³⁸

Since April 1994, the DCM suggested, and the [redacted] reported, Special Envoy Redman had attempted to find a way to arm the Bosnian Muslims. In a report to headquarters on April 20, 1994, the [redacted] explained that the DCM told him that Special Envoy Redman and perhaps others were considering a covert action plan similar to the United States role in Afghanistan to circumvent the arms embargo.³⁹ Special Envoy Redman has no recollection of pursuing any such proposal and was unsure of the source of the statement.⁴⁰ The DCM also could not recall telling the [redacted] that the Special Envoy was considering a covert action plan.⁴¹

Throughout the summer the DCM continued to encourage speculation about Special Envoy Redman. In July 1994, he commented to the [redacted] that Special Envoy Redman's key role in the entire affair was not well known in Washington.⁴² The [redacted] who by this time had been instructed repeatedly by his headquarters to report anything that looked like United States involvement in arming the Muslims,⁴³ dutifully reported his

³⁷ See Neitzke Subcommittee Dep. at 247 (explaining that he did not personally intervene but that he was sure [the United States] intervened; Redman may have intervened. . . .).

³⁸ [redacted] Apr. 20, 1994.

³⁹ Redman Subcommittee Dep. at 86.

⁴⁰ [redacted] July 26, 1994.

⁴¹ Although he was cautioned to refrain from editorializing on the issue of arms shipments, the [redacted] continued to encourage the [redacted] to report including information

conversation with the DCM. This report added to the inaccurate and growing suspicions at the CIA that something was happening to which it was not privy.

The reporting of the DCM's unsubstantiated claims that Special Envoy Redman intervened in this convoy, together with other reporting of the DCM's allegations led to increased skepticism at the CIA about what was happening at Embassy Zagreb. In a conversation with Special Envoy Redman's intelligence assistant, [redacted]

[redacted] also voiced concerns about Special Envoy Redman's role.⁴² The [redacted] told the intelligence assistant about his belief that Special Envoy Redman had helped precipitate the Iranian arms flows during his meeting with President Tudjman and Ambassador Galbraith and related that to his alleged involvement in the May 1994 convoy.⁴³ Special Envoy Redman's assistant explained that there was no reason for Special Envoy Redman to take an active role in any Bosnian-Croatian matters other than to bring the parties to negotiation.⁴⁴ It was her opinion that the [redacted] was exaggerating Special Envoy Redman's role in the whole affair.⁴⁵

Because of the DCM's persistent speculation about Special Envoy Redman's involvement and the [redacted] persistent reporting of conversations with other embassy personnel, the IOB was asked to investigate whether Special Envoy Redman facilitated the flow

he obtained in conversations with other United States embassy personnel. The CIA repeatedly instructed the [redacted] to continue reporting information as he had been between 4-11/94.

⁴² Subcommittees Int. at 1.

⁴³ [redacted] at 1-2.

⁴⁴ [redacted] at 1.

⁴⁵ [redacted] at 2.

of arms to Bosnia. The IOB concluded that circumstantial evidence existed to suggest that Special Envoy Redman had done something for Ambassador Turkovic's convoy, but even if he had interceded, Special Envoy Redman lacked any knowledge that the convoy contained arms. Furthermore, as discussed in Chapter One, Section Five of the Minority Views regarding the definition of covert activity, even if Special Envoy Redman had known that arms were on board and had facilitated the release of the convoy, his actions would not have constituted a covert action.

The Minority concludes that had it not been for this rampant speculative reporting, the May 1994 convoy would have been no more significant than the thousands of other convoys that traversed the region during the war. The allegations of misconduct and possible covert action were wholly unsupported by any evidence and should not have been accorded the level of significance that was afforded them. The Minority also believes that the CIA must do a better job of distinguishing between speculation and gossip in intelligence reporting. The speculation by the DCM about Special Envoy Redman was rumor and gossip, not intelligence.

**ALLEGED MEETINGS BETWEEN AMBASSADOR GALBRAITH AND THE
MUSLIM CLERIC OMERBASIC.**

The transshipment of arms from Iran and other Islamic countries to Bosnia through

Croatia undoubtedly involved the work of middlemen, arms dealers and other shadowy figures.

The shadowy figure who emerged in the Select Subcommittee investigation was Imam

Omerbasic, the religious leader of the Muslims in Zagreb. The Minority shares the belief that

Imam Omerbasic played a role in arranging arms shipments to the Bosnian Muslims. However,

the Minority strongly objects to any effort to connect the Imam's role to any United States

Government official. For example, Imam Omerbasic met with Senator Bob Dole who also was

sympathetic to the plight of the Bosnian Muslims. To suspect Senator Dole on the basis of a

meeting and his sympathy for the Bosnians would be ludicrous. To do so in the case of

Ambassador Galbraith is equally so.

Celebrating the End of Ramadan.

One of the first allegations that United States officials may have been involved in covert

attempts to arm the Bosnian Muslims surfaced in April 1994, before the United States responded

to Croatia's inquiry about the resumption of the formal arms pipeline to Bosnia.

Upon receipt of the cable, the [redacted] attempted to ascertain if anyone in the

embassy had met with the cleric or had any information about the identification of the United

States official. After learning that the Ambassador and the Economic Commercial Officer had

been at the Mosque the month prior, the [redacted] cabled back to [redacted] headquarters before

checking all the facts and reported that it was the Ambassador who had met with the cleric and

discussed the conveyance of arms. [redacted]

Testimony and documents reviewed by the Select Subcommittee staff offer no evidence

to suggest that a secret contact or conversation between the Ambassador and the cleric ever

occurred and that supplying Bosnia with arms was ever discussed.

Yates with the Imam.

The Select Subcommittee has confirmed with various Embassy Zagreb personnel that the

cleric was a well known figure in the Zagreb Muslim community who often appeared on

television and in the press to discuss the Bosnian Muslim condition. As such, the Ambassador,

[redacted]

² The Economic Commercial Officer was responsible for maintaining the Embassy's contact with the religious communities in Croatia.

other Embassy Zagreb personnel and visiting Members of Congress and staff paid courtesy calls on the Imam, when appropriate. For instance, in an interview of the Imam by the Select Subcommittee, Mr. Omertasic acknowledged meeting with Senator Dole and Representative McCloskey on their trips to the region.³ Certainly if the Ambassador or any other United States Government official in Croatia had discussed with the cleric a rogue operation to provide the Bosnians with arms, the Embassy would be reluctant to facilitate meetings between Members of Congress and the Imam out of concern that the cleric might disclose the illicit operation.

The Majority Report asserts that Ambassador Galbraith and Cleric Omertasic met a number of times between August 1993 and April 1994. The Select Subcommittee heard testimony from several sources who described the infrequent contact between the Ambassador and the cleric, limited to one or perhaps two meetings between the Ambassador and the cleric.⁴

³ Select Subcommittee Interview of Imam Savo Omertasic, Aug. 21, 1996, at 1 (hereinafter "Omertasic Subcommittee Int."). The Majority report characterizes Mr. Omertasic's answers to staff questions during this interview as "demonstrably false." However, the Majority report offers no evidence to support this comment. In the absence of proof, the minority does not similarly question the portion of the Imam's interview relating to his contacts with Ambassador Galbraith.

⁴ The Majority report cites two sources for its assertion that "several meetings" occurred during 1992-1993: the Select Subcommittee Deposition of Charlotte Stottman, Aug. 10, 1996 and a Memo of Interview of Terri Lee Baker prepared by Julia Galtes and Janine Doberty. The minority questions both of these cites. First, during her deposition, Ms. Stottman claimed that the name Omertasic "was familiar" and that he came to the Embassy "more than once." *Id.* at 38. Ms. Stottman did not offer and the Select Subcommittee was unable to determine any corroborating evidence to prove that the Imam ever visited Embassy Zagreb for any purpose. In subsequent interviews, colleagues of Ms. Stottman noted that she was moody and perhaps the victim of a split personality. Further, upon attempting to corroborate Ms. Stottman's memory of factual issues, she was found to be in error on many occasions. In light of these factors, the minority has difficulty relying on her recant of events and questions her credibility. See Select Subcommittee Interview of Terri Lee Baker, Aug. 19, 1996; Select Subcommittee Interview of Shana Pitzer, Aug. 30, 1996; Select Subcommittee Interview of Duska Djuric, Aug. 21, 1996.

The first meeting took place in July 1993, when the Ambassador made a courtesy call on Imam Omertasic at his office in the Zagreb Islamic Center.⁵ It is customary for a new Ambassador to pay a courtesy visit to all government officials and community leaders - including religious leaders. The embassy Protocol Affairs Officer, arranged the meeting and Susan Howanc, the embassy's Public Affairs Officer, accompanied the Ambassador to the meeting.⁶ While their discussion lasted more than an hour, in part because it was facilitated through an interpreter, the conversation centered mostly on the war and the vast number of Muslims who were dying as a result. Ms. Howanc characterized the meeting as a "sad recital of suffering."⁷

Second, the Select Subcommittee Interview of Terri Lee Baker, Aug. 19, 1996, at 1, accurately noted that Ms. Baker had no knowledge of an individual named Imam Omertasic and it is therefore unclear how she would be aware of "several meetings." Additionally, in a Memorandum of Interview of Terri Lee Baker prepared by Carrie Moore, Ms. Baker is noted to have stated that she never scheduled meetings for the Ambassador and Mr. Omertasic.

⁵ Select Subcommittee Deposition of Susan Howanc, Aug. 7, 1996, at 33 (hereinafter "Howanc Subcommittee Dep.>").

⁶ *Id.* at 33-34. Ms. Howanc testified that the Embassy Protocol Affairs officer, Ms. Duska Djuric, probably made the arrangements for the meeting, but that she (Susan Howanc) also may have arranged it. Later, Ms. Howanc remembers that Economic Commercial Officer Tom Mithradch also may have scheduled the meeting. *Id.* at 77. Ms. Howanc claims that one of the reasons she accompanied the Ambassador to the meeting was because she speaks Croatian and was able to certify that the interpreter's translations between Ambassador Galbraith and Mr. Omertasic were correct.

⁷ Howanc Subcommittee Dep. At 34. See also, Select Subcommittee Deposition of Peter Galbraith, August 19, 1996, at 77, 80 (hereinafter "Galbraith Subcommittee Dep.>"). Ambassador Galbraith did not offer any information about this meeting during his deposition. Although the Ambassador did not recall having met Imam Omertasic prior to March 13, 1994, he did not exclude that there might have been some other occasion, for instance the Fourth of July party in 1993, when they may have met. Ambassador Galbraith did recall generally paying a courtesy call with "some Muslim leaders" in the summer of 1993, but he was unable to identify anyone in particular. *Id.*

The second meeting between the Ambassador and Imhan Omerbasic, if it occurred at all, may have occurred on Sunday, March 13, 1994, the last day of the Muslim holy month of Ramadan.⁸ Ambassador Galbraith and Tom Mifmacht, the embassy's Economic Commercial Officer, had been invited to attend a gathering (the feast of Eid) to mark the end of Ramadan. Dr. Izet Aganovic, the President of the Merchant relief organization and an individual with whom Mr. Mifmacht had frequent business contact, had extended the invitation to the Ambassador.⁹ At 8:30 am on March 13, the Ambassador and Mr. Mifmacht went to the mosque to attend the early morning celebration in a show of solidarity with the Muslim community in Zagreb.¹⁰ Both the Ambassador and Mr. Mifmacht characterized this event as a festive occasion in which mere pleasantries were exchanged, rather than a business meeting.¹¹ The Ambassador testifies that March 1994 was the last time he met with the cleric.¹² (The Ambassador's

⁸ Galbraith Subcommittee Dep. at 77.

⁹ Select Subcommittee Deposition of Tom Mifmacht, Aug. 14, 1996, at 46 (hereinafter "Mifmacht Subcommittee Dep."). Mr. Mifmacht testified that, in the course of his day-to-day work tracking progress of the humanitarian aid convoys and organization relief efforts, he had frequent contact with relief organizations including Merchant and its director, Dr. Izet Aganovic.

¹⁰ Mifmacht Subcommittee Dep. at 47.

¹¹ Galbraith Subcommittee Dep. at 78; Mifmacht Subcommittee Dep. at 47-48.

¹² Galbraith Subcommittee Dep. at 79. The Majority Report notes the presence of the business card of Mr. Omerbasic in the Ambassador's Rolodex as recently as August 1996, perhaps as a suggestion that the Ambassador and the cleric had a great deal of contact despite the Ambassador's firm recollection to the contrary. The Minority is not aware of how the Majority obtained information about the contents of the Rolodex, as no copy of the Ambassador's Rolodex was ever requested by, received, or made available to the Select Subcommittee. A photocopy of Omerbasic's business card appeared in the Select Subcommittee files on October 22, 1996.

recollection of the cleric's presence during the post-Ramadan meeting may be in error, however, as Mr. Mifmacht testified that the cleric was not present. In addition, the cleric informed the Select Subcommittee that he did not specifically recall attending the Feast of Eid.¹³

The [redacted] tries to identify the United States Officials but jumps to conclusions.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

In late April 1994, six weeks after the Ramadan celebration, the [redacted]

[redacted]

[redacted]

¹³ Omerbasic Subcommittee Inq. at 1. The cleric remembered meeting Ambassador Galbraith in 1993, but did not specifically recall if he or the Ambassador were present at the feast of Eid in 1994.

¹⁴ Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 61-62 (hereinafter "Subcommittee Dep. 7").

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted] If United

States officials had attempted to obtain arms for the Bosnian Muslims, it is highly unlikely that the Imam would have waited a month to report such an important contact and request to his Iranian contacts [redacted]

The [redacted] speculated that the meeting between the United States officials and the cleric involved "apparent collusion" with Iran on the delivery of arms and asked his Deputy to approach the embassy's Economic Officer Tom Mifmacth to inquire what United States officials had met with the cleric." After Mr. Mifmacth replied that he and the Ambassador were at the Eid celebration at the Mosque in March [redacted]

[redacted] did not ask Economic Officer Mifmacth what had transpired at the meeting" and consequently, filed an incomplete cable back to his headquarters that merely offers that the Ambassador may be one of the unidentified officials [redacted]

When the Ambassador returned from travel, the [redacted] approached him about the intelligence report. Ambassador Galbraith reviewed the report, verified his presence at the [redacted]

¹⁹ Senate Select Committee on Intelligence Hearing Apr. 31, 1996, (testimony of the [redacted] at 16; The [redacted] did not approach the Embassy Zagreb officer personally when investigating his concern. Instead, he asked his [redacted] to make a generic request about what United States officials may have met with the Imam.

¹⁸ This is most curious because the cable has no reference to a date of the alleged meeting between the cleric and the U.S. government officials. [redacted]

Mosque the month before, and denied discussing the issue of arms at all with the Imam."

Because he did not ask for any additional information from Economic Affairs Officer Mifmacth or Ambassador Galbraith, the [redacted] cable was filled with inaccuracies and speculation. For instance, the [redacted] failed to report in his cable to headquarters that Mr. Mifmacth did not think that the cleric was present at the feast of Eid and that the Ambassador, therefore, may have been in error in remembering that Mr. Omertasic was present at the event. ²¹ The [redacted] did not check, nor did he report that both Mr. Mifmacth and the Ambassador were in each other's presence during the entire event and that no discussion of arms shipments occurred. ²² Finally, the reporting inaccurately portrays the character of the event, referring to it as a meeting rather than a festive event to mark the end of Ramadan to which the local press was invited. At best, the reporting is speculative and incomplete. At worst, it appears to be intentionally misleading since it states as fact that Mr. Mifmacth said that he and the Ambassador met with the cleric, but fails to include Mifmacth's true recollections that the cleric was not present, that arms were not discussed, [redacted]

[redacted]

²⁰ Subcommittee Dep. at 30. [redacted]

²¹ Mifmacth Subcommittee Dep. at 45. When asked if he had met the cleric, Mifmacth replied that he recalled meeting the cleric in November 1992, and then says "I have to confess, I believe it's been said that he was at this meeting in March of 1994, but I don't distinctly recall him being there." See also, Galbraith Subcommittee Dep. at 78 (explaining he remembers meeting the cleric at the feast of Eid).

²² Mifmacth Subcommittee Dep. at 48 (explaining that he does not recall any instances in which he might not be within earshot of the Ambassador); [redacted] Subcommittee Dep. at 30 (noting that Ambassador Galbraith said he never discussed arms with the cleric) [redacted]

In response to a question posed to the cleric asking if the Ambassador ever was involved in working to arm the Bosnian Muslims, the cleric replied that "unfortunately" that was not the case.²¹ The Imam explained that if the Muslims had received weapons from the United States, they would have not have suffered as many casualties.²² The cleric went on to state that he had no knowledge of any United States officials involved in arming Bosnia.²³ That Imam Omertasic expressed disappointment that the United States had not supplied arms to the Bosnian Muslims, further casts doubt on the possibility that Ambassador Galbraith or any other United States official ever had made an offer of arms.

A Case of Mistaken Identification

The record is clear. The Ambassador first met Mr. Omertasic in July 1993 on a courtesy call. Arms were not discussed. The second possible contact between the Ambassador and the cleric with respect to which none of the participants -- including the cleric -- has a clear memory of who attended, was a social event covered by the press in which no discussion of arms occurred. Two years later in May 1996, when the new Deputy Chief of Mission Robert Finn made a courtesy call on the Imam, the cleric noted that he was the first official from the Embassy the cleric had met with in two years.²⁴

²¹ Omertasic Subcommittee Int. at 1.

²² *Id.*

²³ *Id.*

²⁴ Select Subcommittee Interview of Robert Finn, Aug. 18, 1996, at 2.

[redacted] but no credible evidence exists to confirm the speculation by the [redacted] that United States government officials were "colluding" with Iran on weapons. In fact, the speculative, incomplete and inaccurate nature of the reporting created suspicions within the CIA that a covert operation, spearheaded by Ambassador Galbraith, was underway. This was wildly disproportionate to the facts. ~~(S)~~

MYSTERY FLIGHTS INTO TUZLA

Among the most publicized allegations of United States involvement in arming the Bosnian Muslims involved the February 1995 reports of United States cargo aircraft landing at Tuzla airport. These reports were investigated at the time they occurred by NATO, the Defense Department and the Central Intelligence Agency. No evidence confirming the reports was discovered. The Minority air¹ has not been able to identify credible evidence of the alleged flights.

The reports of phantom C-130 cargo planes escorted by fighter jets first surfaced in the public media in February 1995.² According to press accounts,³ United Nations peacekeepers reported hearing and seeing cargo planes escorted by fighter aircraft flying over the Tuzla airport

¹ Allegations that the United States was conducting covert arming of the Bosnian Muslims in Sarajevo were not new. A United States Army colonel stationed with the UNPROFOR commander heard similar allegations as early as 1994. These allegations likely were premised on the fact that the United States regularly conducted humanitarian food drops in the Tuzla region from C-130s stationed out of Germany. He believed, and the commander of UNPROFOR concurred, that these rumors were being circulated by people who felt it in their interest to do so. "Select Subcommittee Deposition of LtCol John E. Sney, Aug. 29, 1996, at 16 (hereinafter "Sney Subcommittee Dep. "). In 1994 the colonel and others from European Command investigated the allegations and confirmed that there were food drop operations being conducted and no covert activity on the part of the United States. *Id.* at 21. The rumors that stemmed through 1995 that the United States was involved in some sort of covert operation likely stemmed from these earlier rumors.

² See, e.g., NATO Finds No Trace of Mystery Bosnian Aircraft, Reuters, Feb. 12, 1995 (United Nations peacekeepers reported fresh sightings of mystery aircraft); Robert Fox, Hercules Elusive Near Escalation, The Daily Telegraph, Jun. 2, 1995, at 1 (flights of a C-130 Hercules were heard landing at the Tuzla airport in February); UN Says There's No Proof of Arms Shipments to Bosnian Muslims, Deutsche Press-Agentur, Mar. 1, 1995 at A9 (U.S. Built C-130s are speculated to have been used by the United States or Turkey to run covert operations).

on the nights of February 10 and 12, 1995.⁴ On the evening of February 10, 1995, a patrol went to investigate the alleged flight but retreated after being fired upon by Bosnian Muslim forces.⁵ Although no cargo or other aircraft actually were observed on the ground at any of the four airstrips which comprise the Tuzla airport region, the press reported speculation that the United States was involved. Press speculation about a United States role in the flights persisted because it was believed that the C-130s may have been conducting maneuvers such as air drops of high technology weapons that could have only been performed by only a few countries such as the United States, France, and Britain.⁶

On both occasions, NATO, the entity responsible for maintaining the no-fly zone over Bosnia, found nothing to verify that the flights had taken place.⁷ The speculation continued, however, because the United States had primary responsibility for the monitoring of the no-fly zone via radar and other aircraft and thus presumably could have allowed the flights to proceed "undetected."⁸ Some alleged that the United States also would have been in the position to know when radar coverage of the Tuzla area would be diminished sufficiently to permit clandestine

⁴ Catherine Tropp, Russia Demands Answers at UN: Suspicious Secret Arms Drops in Bosnia, *Deming Evening*, The Washington Times, Feb. 25, 1995, at A9.

⁵ U.S. Turned Blind Eye to Airdrops to Bosnian Muslims, Reuters, Oct. 30, 1995.

⁶ *Id.*

⁷ See UN Says There's No Proof of Arms Shipments to Bosnian Muslims, Deutsche Press-Agentur, Mar. 1, 1995 (statement by UN spokesman Fred Eckhard)(There is no proof to support the theory that U.S. cargo planes have recently made weapons drops to the Bosnian Muslims).

flights.⁷

On February 24, 1995, the Russian delegation to the United Nations Security Council asked for a formal report from NATO and the United Nations on the mystery flights.⁸ NATO subsequently launched a military investigation into the matter. Military investigators traveled to Tuzla and interviewed eye witnesses in order to reconstruct events.⁹ The military investigation concluded that the flights observed by the Norwegian members of UNPROFOR on February 10 and 12, 1995, were attributed to "scheduled . . . NATO flights."¹⁰ NATO released the results of its investigation on March 1, 1995.¹¹ Despite the NATO investigation, questions continued to linger within European circles about the Tuzla flights and possible United States involvement. Press reports continued sporadically throughout 1995, quoting unidentified U.N. officials alleging that the flights "had been a weapons delivery" and that "the United States had approved of the . . . operations."¹²

⁷ INF Memorandum, Feb. 21, 1995, at 1. At the time, only one AWACS radar plane was monitoring the area over Bosnia, and Tuzla was located at the edge of the AWACS' effective range. *Id.*

⁸ *Id.* In his address to a closed session of the Security Council, Yur Fedotov, Russian Special Envoy to the United Nations called the alleged flights "a cause for concern." *Id.*

⁹ *Id.* On January 17, 1995, NATO resumed close air support ("CAS") training over Bosnia. DRV Viewpoint, Jan. 21, 1995, at 2. These training missions were not publicized widely and it is likely that ground UNPROFOR were not informed about them in advance.

¹⁰ NATO Says Investigation Finds No Evidence of Arms Drops, Associated Press, Mar. 1, 1995.

¹² *Id.*

The NATO Investigation

According to the report prepared by the NATO investigative team, beginning at approximately 5:45 p.m. on February 10, UNPROFOR personnel located in Sector Northeast reported the sighting of a transport type aircraft with two fighter escorts.¹³ According to the Air Operations Coordination Center ("AOCC") in Sarajevo, these planes were seen landing at the Tuzla West airstrip.¹⁴ Approximately one hour later, U.N. monitors also began receiving reports of fixed wing activity around Tuzla.¹⁵ In all, four reports of fixed wing activity were lodged on February 10, 1995.¹⁶ The second report occurred in the early evening of Sunday, February 12, 1995. UNPROFOR personnel began reporting "jet noise" over Tuzla. Reports of fixed wing aircraft filtered into NATO and United Nations monitoring centers for nearly an hour. While attempting to ascertain if a plane had landed at that Tuzla West airstrip, a team of Nordic

¹³ Col. Timothy Jones, Final Report of Possible Fixed Wing Flight Activity at Tuzla, 10 and 12 Feb. 1995, NATO/UNPROFOR Investigative Team (hereinafter "Tuzla Final Report").

¹⁴ *Id.*

¹⁵ Press reports of the flights indicated that they took place at the "Tuzla airport." This is actually a misnomer for a collection of four airstrips located within the Tuzla area. A description of each of these air strips is helpful in understanding the likelihood that arms deliveries by C-130 type aircraft would have taken place within the area. "Tuzla main," an asphalt runway of nearly 7,000 feet, was under the control of UNPROFOR Northeast forces during 1995. This would have been the only available runway for the C-130s to use. The "Tuzla Highway Strip," located approximately six kilometers east of Tuzla Main, generally was unobserved by UNPROFOR although it was considered usable, but was not of the appropriate length for use by C-130s. "Tuzla East" by another kilometer east of Tuzla Highway. Tuzla East was a grass strip that was unusable at the time these alleged flights occurred. The final airstrip in this collection was designated "Tuzla West." Tuzla West, located four kilometers southwest of Tuzla Main, was covered with piles of dirt rendering it unusable. Tuzla Final Report.

¹⁶ *Id.*

UNPROFOR troops was surrounded by Bosnian forces and prohibited from examining the airstrip.¹⁷

The Select Subcommittee reviewed documentation provided by the Department of Defense, including the final report issued by the NATO investigative team, and interviewed numerous individuals with knowledge of the rumours and investigations of them. The Minority concludes that no credible evidence exists to substantiate the claim that the United States delivered arms to the Bosnian Muslims via cargo flights on February 10 or 12, 1995.¹⁸

Attempts by United States and Other Officials to Investigate Flights

The [redacted] was aware of the alleged Tuzla flights.¹⁹ Around the time that the flights occurred, the [redacted] received a great deal of cable traffic and reporting on the incidents from military and regular intelligence channels.²⁰ Despite the lack of physical evidence that such flights had occurred, and the absolute lack of United States involvement in the

¹⁷ Tuzla Final Report.

¹⁸ United Nations peacekeepers reported activity in the Tuzla vicinity again on February 17, 1995. This activity included reports of five Bosnian government helicopters landing and taking off from Tuzla airport. This activity was not part of the NATO investigation because that investigation concerned allegations of fixed wing aircraft activity only. The Select Subcommittee has determined, based on interviews and review of available material, that these flights were not part of any United States covert action plan to supply arms to the Bosnian Muslims.

¹⁹ Subcommittee Dep. at 54.

²⁰ The [redacted] testified that general rumors about United States covert activity repeated throughout the intelligence channels were covered "ad nauseam" within the press at 54-56. The Tuzla flights were afforded particular attention in intelligence channels and the media.

matter, the alleged flights were taken seriously because if such an action had been conducted by the United States, it would have caused significant friction within the allies.²¹ Assuming that any such flight would have had to fly over Croatian air space, the [redacted] undertook his own investigation of the flights.²² The [redacted] could not prove that the flights had taken place. His investigation led him to believe that if any flights other than those sanctioned by and known to the United Nations and NATO had occurred, they were likely of Iranian or Turkish origin.²³ He found no evidence indicating the United States had any role in the flights.²⁴

[redacted]

²¹ See [redacted] Subcommittee Dep. at 55 (noting that the flight allegations were causing friction within NATO).

²² [redacted]

²³ Subcommittee Dep. at 55.

²⁴ Herick Subcommittee Dep. at 64.

²⁵ Id.

²⁷ Id.

[REDACTED]

General Wesley Clark knew of the alleged Tuzla flights although he had no official responsibility for investigating them.²¹ Because of his position, General Clark was in contact with UNPROFOR regularly. UNPROFOR commanders explained to him that they had no evidence to suggest that a C-130 had landed at Tuzla nor did they have anything suggesting United States participation in a covert operation to arm the Bosnians.²² After the alleged flights in February 1995, General Clark heard of no more Phantom flights to Tuzla.²³

²¹ *Id.* at 64-65.

²² *Id.* at 65.

²³ Herrick Subcommittee Dep. at 66.

²⁴ Clark Subcommittee Dep. at 61.

²⁵ *Id.* at 62. According to General Clark, UNPROFOR was so perplexed by the mystery flights, they placed a tank fitted with a thermal site at the end of the runway to detect any possible flights. *Id.* UNPROFOR did not detect any flights.

²⁶ *Id.*

Chapter Two
Section Seven
THE MISSILE INCIDENT

The incident that appears to have attracted the most concern involves a shipment of missiles from Iran that was stopped in Croatia. The Croatian authorities asked the United States Government to inspect the missiles for chemical warheads. The Defense Attaché at Embassy Zagreb, accompanied by two different intelligence officers, inspected the missiles on two separate occasions. The officials concluded that the missiles did not contain chemical warheads. No credible evidence to indicate any other United States involvement in the missile shipment was determined. The Majority alleges that Ambassador Galbraith was involved in persuading the Croats to release the missiles to the Bosnians. The sources for the allegation are two Croat officials whose credibility and veracity have been challenged in a general way by a number of other Americans, and whose account of this event is inconsistent with the account of all other United States officials involved with the missile inspection.

In a May 21, 1996 article, *The Los Angeles Times* reported that in September 1995 the United States was involved in the inspection of a shipment of missiles destined for Bosnia from Iran.¹ The article alleged that United States officials had gone beyond passive acknowledgment of the arms pipeline to a direct role in facilitating the arms flow.² The article claimed that the CIA and the military, after overcoming their alarm at the weapon's potential, permitted them to

¹ James Risen and Doyle McManus, *Terrorist Risk to Americans in Croatia is Linked to Iran*, *Los Angeles Times*, May 21, 1996, at A1 (hereinafter "LA Times Article").

² *Id.*

be released to the Bosnians under the direction of Ambassador Galbraith.¹

The Select Subcommittee undertook a detailed investigation of these allegations. Staff reviewed official reports and documents generated about the shipment, including the cable traffic of both the Defense Attache and the ██████████ in Zagreb; interviewed numerous witnesses with first hand knowledge of the events; and reviewed media accounts and Congressional hearing testimony. ~~██████████~~

The Minority concludes, in direct contradiction to the findings of the Majority, that the inspection of the missiles by United States military and intelligence personnel was conducted for the sole purpose of determining whether the missiles were armed with chemical warheads. The Minority also concludes that the inspection was consistent with the terms and conditions of the Nunn-Mitchell amendment. The Minority concludes further that the inspection was appropriate for this limited purpose in order to protect United States civilian and military personnel from the risks of introducing chemical weapons into the region.

The Minority found no credible or substantive evidence that Ambassador Galbraith, the ██████████ or any other United States government official facilitated or encouraged the release of these missiles and does not agree with the Majority's decision that referral to the House Permanent Select Committee on Intelligence for further investigation of this matter is warranted. The inspection did not amount to covert activity. As discussed supra Section Five of Chapter One, the inspection of the missiles by the Defense Attache and subsequently by a missile expert did not amount to "an activity . . . to influence political, economic, or military conditions."

¹ Id.

rather it was a technical support function to assist Bosnia that falls well within the exception to covert activity for "traditional military activities or routine support. . . ." ~~██████████~~

And, although the Minority wholly disagrees with the Majority's conclusion that Ambassador Galbraith did pressure the Croats to release the missile, even if he did, such action falls outside the scope of covert action. "[A] request by the United States government to third parties [does not] constitute covert action as defined by the Act." To argue that any action taken by Ambassador Galbraith neither is supported by the facts nor does it comport with the law.

Media Reports of the Missile Inspection and Informal Investigation by the Intelligence Oversight Board

According to the Los Angeles Times article, the Croats seized the missiles in September 1995 and held them in Pula.² The article reported that Croatian Defense Minister Gojko Susak was concerned that the missiles contained chemical warheads and, if so, represented a sharp escalation in the types of weapons being shipped.³ The article reported that American officials reacted with alarm to Susak's news, and an immediate investigation by Central Intelligence Agency and United States Army personnel was undertaken.⁴ The missiles

² Statement by President George Bush upon Signing H.R. 1455, *Weekly Comp. Pres. Doc.* 1137 (Aug. 19, 1991), reprinted in 1991 U.S.C.C.A.N. 257.

³ LA Times Article.

⁴ Id.

⁵ Id.

were released to Bosnia at the behest of certain United States officials including Ambassador Galbraith after the investigation determined that the missiles contained no chemical or biological agents.⁹

The Intelligence Oversight Board ("IOB"), which had concluded in May 1995 that no United States covert activity to arm the Bosnian Muslims had occurred in 1994, initiated an informal review of the "missile allegation" as a supplement to its report.¹⁰ Based on interviews with key United States individuals, the IOB determined that no evidence existed to suggest that Ambassador Galbraith, the [redacted] or any other United States official pressured the Croats to release the missiles.¹¹

Intelligence during the Spring and Summer 1995

Following enactment of the Nunn-Mitchell amendment in November 1994, and throughout 1995, [redacted]

⁹ Id.

¹⁰ Select Subcommittee Interview of Anthony Harrington, July 23, 1996 (hereinafter "Harrington Subcommittee Int.").

¹¹ Id. Because interviews with the United States officials clearly indicated that no covert action had taken place, the IOB did not interview Croatian officials. Id.

¹² Senate Select Committee on Intelligence Deposition of [redacted] May 31, 1996, at 50 (hereinafter "Schindler SSCI Dep."); [redacted] was director of the Interagency Balkan Task Force ("IBTF") of the Central Intelligence Agency. [redacted] The IBTF provided intelligence summaries for the National Intelligence Daily which were circulated throughout Congress and

[redacted]

[redacted]

¹³ SSCI Dep. at 54.
¹⁴ July 26, 1995, at 2.
¹⁵ SSCI Dep. at 54.
¹⁶ July 22, 1995, see also Select Subcommittee Deposition of [redacted] Aug. 9, 1996, at 100 (hereinafter "Subcommittee Dep."); [redacted] Subcommittee Dep.).

[REDACTED]

Initial Shipments of Missiles.

[REDACTED]

¹⁴ [REDACTED] July 28, 1995.

¹⁵ [REDACTED]

¹⁶ [REDACTED]

¹⁷ [REDACTED]

¹⁸ [REDACTED]

¹⁹ [REDACTED] July 28, 1995.

²⁰ [REDACTED]

²¹ [REDACTED] SSCI Dep. at 55.

²² [REDACTED] July 28, 1995.

²³ [REDACTED]

²⁴ [REDACTED]

²⁵ [REDACTED]

Subcommittee Dep. July 28, 1995. Missiles have a range of approximately 100 kilometers. The missile warhead is generally high explosive that detonates upon impact. SSCI Subcommittee Dep. at 43. The Iranians initiated sales of the [REDACTED] to the foreign public in 1993. Jane's Intelligence Review, June 1, 1995.

[REDACTED]

The Third Shipment and United States Involvement.

[REDACTED]

The Bosnians may have

been concerned that if they did not inform the Croats directly about the shipments, and they learned of them subsequently, the Croats would use the shipments as an excuse to curtail the pipeline.²⁶ Of course, the Croats would insist on their cut if they were informed of the

²⁶ [REDACTED]

²⁷ [REDACTED]

²⁸ [REDACTED] Aug. 30, 1995.

²⁹ [REDACTED]

³⁰ [REDACTED]

³¹ [REDACTED]

³² [REDACTED]

³³ [REDACTED]

³⁴ [REDACTED]

³⁵ [REDACTED]

³⁶ [REDACTED]

³⁷ [REDACTED] Galbraith Subcommittee Dep. at 77.

contents. Although the United States was aware that the missiles were being shipped, the Nunn-Mitchell restrictions prohibited the sharing of intelligence regarding the missiles. As events unfolded, however, the Croats gained independent knowledge that Iran was shipping missiles to Bosnia. ~~§~~

On August 29, 1995, an Iranian air force cargo plane was forced to land at Split, Croatia when bad weather prevented it from entering Bosnian territory. The Croats then diverted the plane to Pula, Croatia. The Croatian government seized the plane at Pula, examined the contents and determined that it contained missiles. The Croats expressed concern that the missiles contained chemical warheads. ~~§~~

~~§~~ It is more likely, however, that ~~§~~ initial anger was directed at the Bosnian and Iranian efforts to keep the shipments secret to avoid paying Croatia its one-third cut. In fact, the concern over chemical weapons may have been a sham. The Defense Attaché testified before the Select Subcommittee that when he inspected the missiles at the airport, he discovered that the crates had never been opened. ~~§~~

Assistant Secretary Holbrooke and General Clark Are Approached About the Missiles.

The Majority grossly mischaracterizes and attempts to downplay the involvement of any

²⁸ Select Subcommittee Deposition of ~~§~~ Aug. 9, 1996, at 102-03 (hereinafter "~~§~~ Subcommittee Dep. 7").

²⁹ Select Subcommittee Deposition of Lt. Col. John Sadler, Aug. 21, 1996, at 14 (hereinafter "Sadler Subcommittee Dep. 7").

United States official in the ~~§~~ other than Ambassador Galbraith's alleged manipulation of the Croats to release the seized missiles to the Bosnians. The Majority misrepresents the facts and relies on innuendo and circumstantial statements from less than credible Croatian sources. The Majority relies, therefore, on less than credible reports by ~~§~~ who neither agreed with the United States policy nor the actions of his Ambassador, to promote a suggestion that Ambassador Galbraith in some way committed a breach of covert law is specious.

In August 1995, Richard Holbrooke, who had been serving as Assistant Secretary for European and Canadian Affairs since September 1994, began an intensive five month mission to bring peace to the region. Traveling with him throughout Europe and the Balkans was General Wesley Clark, Director of Strategic Planning and Policy for the Department of Defense.³¹ Assistant Secretary Holbrooke and General Clark were accompanied on this mission by representatives of the NSC, Department of Defense and Department of State.

During one of many meetings with Croatian President Franjo Tudjman they attended in August 1995,³² Defense Minister Gojko Susak approached Assistant Secretary Holbrooke and expressed concern about the seized shipment.³³ The Croats claimed that the shipment would be a violation of the rules of war and international law if it contained some sort of chemical

³¹ General Clark had been touring the Contact Group and other allied countries with National Security Advisor Anthony Lake prior to meeting Assistant Secretary Holbrooke in London for the second leg of their shuttle diplomacy. Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 4748 (hereinafter "Clark Subcommittee Dep. 7"). In addition to the Contact Group countries, Lake and Clark traveled to Spain, Italy, and Turkey. Id.

³² This meeting likely took place at the presidential palace in Zagreb, Croatia. Id. at 51.

³³ Senate Select Committee on Intelligence Deposition of Richard Holbrooke, May 21, 1996, at 80 (hereinafter "Holbrooke SSCI Dep. 7").

warhead.³¹ Defense Minister Susak requested assistance from the United States in determining what type of warhead was contained in the missiles.³²

Assistant Secretary Holbrooke turned to General Clark and asked him to look into the matter.³³ General Clark attempted to contact the European Command (EUROM) headquarters, but was unsuccessful.³⁴ Next, General Clark contacted the Defense Attache at United States Embassy Zagreb. Lieutenant Colonel John Sadler, the new Defense Attache at Embassy Zagreb, informed General Clark that embassy officials already were aware of the shipment and had dispatched a joint military and intelligence team to investigate.³⁵ General Clark subsequently reached General Keller, EUROM commander, and informed him of the situation.³⁶ General Keller promised Clark that he would "make sure it was worked on."³⁷ Neither Assistant Secretary Holbrooke nor General Clark had anything more to do with the missile shipment after

³¹ Holbrooke SSCI Dep. at 80, 84.

³² *Id.* at 80.

³³ *Id.* at 80, 84; Clark Subcommittee Dep. at 50.

³⁴ Senate Select Committee on Intelligence Deposition of General Wesley Clark, June 24, 1996, at 26-27; see also, Holbrooke SSCI Dep. at 84 (Clark "... called the European Command headquarters in Stuttgart).

³⁵ Clark Subcommittee Dep. at 51. As discussed below, LTCol Sadler was involved in the inspection of the missiles, however, he does not recall receiving the phone call from General Clark. Sadler Subcommittee Dep. at 20.

³⁶ Clark SSCI Dep. at 27. Clark had no record of the telephone call and was unsure whether he reached General Keller that evening or the following morning. *Id.*

³⁷ *Id.*

these initial exchanges."

The Croatian request for United States assistance with inspecting the missiles did not come as a surprise to General Clark³⁸ or Assistant Secretary Holbrooke. Defense Minister Susak knew that EUROM possessed the technical expertise in this area that the Croatians lacked.³⁹ According to Assistant Secretary Holbrooke, the United States routinely will oblige such requests as a matter of courtesy given the proficiency of the United States Army in the area.⁴⁰

Assistant Secretary Holbrooke did not discuss the decision to proceed with the inspection with officials from the Department of State or other executive branch agencies in Washington.⁴¹ Assistant Secretary Holbrooke decided that if chemical warheads were a possibility, "it was an immediate issue to be looked into"⁴² given the Croatian concern expressed by Defense Minister Susak.⁴³ The missiles, however, were not a primary focus for either General Clark or Assistant

³⁸ Holbrooke SSCI Dep. at 84; Clark Subcommittee Dep. at 53; Clark SSCI Dep. at 27.

³⁹ Clark Subcommittee Dep. at 55.

⁴⁰ Holbrooke SSCI Dep. at 95.

⁴¹ *Id.* Another example of technical assistance provided by the United States involved the cleanup of unexploded ordnance from an ammunition dump explosion outside Zagreb discussed supra, Chapter Two, Section One.

⁴² Holbrooke SSCI Dep. at 84.

⁴³ *Id.*

⁴⁴ *Id.* at 93. It is important to note that although the Croatians expressed concern over the possibility of chemical weapons on board the aircraft, Defense Minister Susak waited until after the negotiations had concluded for the day to raise the issue with Assistant Secretary Holbrooke. *Id.* at 92-93.

Secretary Holbrooke⁴⁸ who were in the midst of intense shuttle diplomacy involving trips to three to four countries per day.⁴⁹ The missile issue, while important, was not "fundamental" to the mission that the two men were attempting to accomplish in the region.⁵⁰ Neither General Clark nor Assistant Secretary Holbrooke was asked to convey the results of the inspection to the Croatians,⁵¹ nor were they asked to facilitate the release of the missiles since they had been inspected.⁵² Neither General Clark nor Assistant Secretary Holbrooke pursued the missile incident in any formal way after this initial involvement.⁵³

Defense Minister Susak Requests Assistance from Ambassador Galbraith.

In addition to informing Assistant Secretary Holbrooke and General Clark of the missile shipment, Defense Minister Susak specifically asked Ambassador Galbraith to send someone down to Pula to inspect the shipment.⁵⁴ Susak told Ambassador Galbraith that he believed the

⁴⁸ Clark Subcommittee Dep. at 56; Holbrooke SSCTI Dep. at 86.

⁴⁹ Id.

⁵⁰ Clark Subcommittee Dep. at 58-59; Holbrooke SSCTI Dep. at 87, 88.

⁵¹ Clark Subcommittee Dep. at 53.

⁵² Clark SSCTI Dep. at 28.

⁵³ Holbrooke SSCTI Dep. at 87; Clark Subcommittee Dep. at 53. In a later trip to Croatia, General Clark asked the Defense Attache what had happened to the missiles and was told that they had been found non-chemical and sent on apparently to Bosnia. Clark SSCTI Dep. at 27; Clark Subcommittee Dep. at 52.

⁵⁴ Galbraith Subcommittee Dep. at 74.

cargo was suspicious which is why he warned United States experts to examine it.⁵⁵ Ambassador Galbraith met with his Defense Attache and agreed that the Defense Attache should travel to Pula to examine the weapons.⁵⁶ The Ambassador did not "order" the Defense Attache to Pula, the decision was made mutually.⁵⁷

The Majority posits that because the Ambassador also knew of the missile shipment, he therefore was instrumental in its release and in direct contradiction to the testimony of General Clark and Assistant Secretary Holbrooke.⁵⁸ The simple fact is that Susak treated the missiles the same way as he had the un-implored ordnance from his ammunition dump; he requested the assistance of the United States and he did so with a variety of sources. The fact that both the Ambassador and General Clark undertook to assist the Croatians with this matter does not lend any more credence to the notion that Ambassador Galbraith did something illegal or even suspect. It simply means multiple people were working on the same issue.

Furthermore, there is no discrepancy in the testimony. Both Ambassador Galbraith and Assistant Secretary Holbrooke recall Susak discussing the matter with each of them at the end of a meeting at the Presidential palace.⁵⁹ In fact, the only person whose testimony on the matter

⁵⁵ Id. at 75; Galbraith HPSCI Dep. at 22.

⁵⁶ Galbraith HPSCI Dep. at 22; Sadler Subcommittee Dep. at 12.

⁵⁷ Galbraith Subcommittee Dep. at 74. The ██████████ testified that he was present at this discussion but neither the Ambassador nor the Defense Attache recall him being there. Id.; Sadler Subcommittee Dep. at 12.

⁵⁸ See Majority Final Report at 139 (noting that "the testimony of the U.S. officials involved is in conflict").

⁵⁹ Galbraith Subcommittee Dep. at 73.

directly conflicts with anyone else involved in the matter is that of the [redacted] Unlike the Majority, however, the Minority does not take issue with the differing recollection of witnesses almost a year after the events occurred.

The Initial Missile Inspection by the Defense Attache.

The Defense Attache made arrangements to travel with a Croatian defense official to Pula. The airplane to be inspected was in a secure section of the airport and appeared to be guarded. The Defense Attache and his assistant [redacted]

[redacted] examined the exterior of the cargo, and discovered the missiles on board. The Defense Attache was not familiar with the missile type and could not determine with certainty if there were chemical weapons. The Defense Attache and his assistant [redacted]

[redacted] made annotations of what they found to forward for analysis. The [redacted]

The [redacted] collects that Susak talked directly with the Defense Attache during a meeting he attended with Assistant Secretary Holbrooke and that conversation was then relayed to the Ambassador. [redacted] Subcommittee Dep. at 100.

¹¹ Sadler Subcommittee Dep. at 12.

¹² Id. at 13.

¹³ Id.

¹⁴ Sadler Subcommittee Dep. at 14. The Defense Attache and his assistant counted the components of three missiles on board the aircraft. Id. at 15. The missiles were broken down into components and packaged in a total of nine containers with virtually no room to maneuver within the cargo hold. Id. at 49.

¹⁵ Id.

¹⁶ Id.

two did not share the results of the inspection with any of the Croatians present. [redacted]

The Defense Attache orally reported his findings to Defense Department officials in Washington and explained that he had been unable to identify the type of missile. The Defense Attache also informed Ambassador Galbraith and the [redacted] of the results of the inspection. The [redacted] kept abreast of the developments by staying in touch with the Ambassador and the Defense Attache. [redacted]

The Second Inspection at the [redacted] Request.

The United States could not determine whether the missile warheads were chemical based on the information gathered during the first inspection. The [redacted] asked the Defense Attache if he would return to Pula with a missile expert from the [redacted] to re-inspect the missiles. The Defense Attache agreed to return if Ambassador Galbraith and the Croatians approved. The interest of the [redacted] had more to do with taking advantage of an intelligence gathering opportunity than fulfilling the Croatian request. The [redacted] wanted to [redacted]

¹⁷ Id. at 15.

¹⁸ Id. at 16.

¹⁹ Id. at 17.

²⁰ Subcommittee Dep. at 100-02.

²¹ at 101; Sadler Subcommittee Dep. at 18.

²² Sadler Subcommittee Dep. at 18.

²³ Id.

²⁴ Subcommittee Dep. at 101.

exploit the opportunity to gain intelligence on Iran's weapons technology.⁶⁷

Six days after the initial inspection, the Defense Attache escorted an intelligence missile expert back to Pula.⁶⁸ The cargo had not been moved, and the Defense Attache repeated the same inspection techniques with the missile expert that were performed on his first trip.⁶⁹ Upon returning to the Embassy,⁷⁰ the missile expert informed the [redacted] that although the type of weapon was as yet undetermined, nothing indicated chemical or biological warheads.⁷¹ Two days later intelligence analysts informed the Embassy that the missile warheads were not chemical in nature.⁷²

[redacted]

⁶⁷ Id.

⁶⁸ Sadler Subcommittee Dep. at 19.

⁶⁹ Id. at 21.

⁷⁰ Id. at 22.

⁷¹ Sadler Subcommittee Dep. at 22.

[redacted]

⁷² Id. The missile expert reported both orally and with written reports to the embassy. Id. Intelligence analysts informed the Select Subcommittee that the [redacted] missiles cannot be fired with chemical warheads. Iranian Analysis Briefing, Sept. 11, 1996, at 4.

⁶⁷ Galbraith HPSCI Dep. at 22; [redacted] Dep. at 105. The [redacted] explained to the Select Subcommittee that the intelligence community routinely utilizes such opportunities to acquire new technology. [redacted] Dep. at 105.

[redacted]

At no time did Assistant Secretary Holbrooke, General Clark, Ambassador Galbraith, or any other American do more than authorize an inspection of the missiles to determine whether they possessed chemical warheads. Initially, the United States was concerned only with the possible introduction of chemical weapons into the region, although the [redacted] became interested in purchasing a missile for subsequent analysis. In fact, the United States was prohibited from responding to a Croatian request to detain the missiles, because to do so would have violated the Nunn-McClellan amendment.⁶⁸

The Croations Arrange to Release the Missiles.

Western intelligence indicates that officials within the Croatian government debated for several days about allowing the shipment to proceed to Bosnia. During this time, Bosnian officials repeatedly sought the release of the missiles by the Croations.⁶⁹ In early September 1995, Susak met with the Defense Attache on an unrelated matter. [redacted]

⁶⁸ [redacted] Dep. at 106.

[redacted]

[REDACTED]

The Majority's Final Report attributes the release of the missiles to the Defense Attache's response to Susak. . . then said he could not comment on that. Susak got the message, and the missiles were sent along to the Bosnia Muslims. . . This is simply not the case. The Defense Attache's response⁴⁸ accurately represented United States policy to refrain from taking any position on arms shipments from third countries. Of course, the Nunn-Mitchell amendment prohibited the Defense Attache from any action that would impede the release of the missiles. Ultimately, the decision to release the missiles was made solely by the Croatian

⁴⁸ Sadler Subcommittee Dep. at 27.

⁴⁹ Id.

⁵⁰ Id. at 50.

⁵¹ Id.

⁵² Majority Report at 140.

⁵³ Sadler Subcommittee Dep. at 27.

government.⁵⁴ [REDACTED] At a dinner with Ambassador Galbraith in 1996, the Defense Minister explained to the Ambassador that he had released the missiles but had kept one for Croatia⁵⁵ which would have been in keeping with Croatia's demand for a share of all weapons transiting the country. The Defense Minister explained that the missiles had been released because it marked the end of the arms shipments for Bosnia⁵⁶ and the release had been negotiated at a summit between the two presidents.⁵⁷ Not once did the Defense Minister suggest that he had been pressured to release the missiles by the United States government. [REDACTED]

There Is No Evidence to Suggest that Ambassador Galbraith Influenced the Release of the Missiles.

Neither the intelligence nor the testimony received by the Subcommittee suggest a

credible basis for the Majority's assertions that Ambassador Galbraith or any other United States

⁵⁴ Id. at 27, 50.

⁵⁵ According to the [REDACTED] the missiles were released on September 13, 1995. [REDACTED] Subcommittee Dep. at 104.

⁵⁶ [REDACTED] the Croatsians would be in keeping with their demand of one-third of all weapons deliveries through their territory, although the Croatsians would not be able to use the weapon as intelligence does not indicate they have launch capability. [REDACTED]

⁵⁷ Galbraith Subcommittee Dep. at 158.

⁵⁸ Id.

⁵⁹ Id.

official exerted pressure on the Croats to release these missiles. The only two references to United States pressure were made to the [redacted] by members of the Croatian government. In mid-September 1995, [redacted] the decision to release the missiles had been coordinated with "you guys" - implying United States government officials.⁹⁷ The [redacted] had not been involved. [redacted] that it was other "USG officials."⁹⁸ Months after the missiles were released to Bosnia, [redacted] claimed that Ambassador Galbraith had forced the release of the missiles.⁹⁹

The credibility of [redacted] on this matter is suspect. First, the allegations of involvement by Ambassador Galbraith or any other American are inconsistent with the recollection of each American involved in the incident, including the [redacted] Second, [redacted]

Third, [redacted] the Defense Attache or the Ambassador.¹⁰⁰ [redacted] did not register his claim until several months after the incident.¹⁰¹

⁹⁷ Subcommittee Dep. at 104. [redacted]
⁹⁸ Subcommittee Dep. at 104. [redacted]
⁹⁹ Subcommittee Dep. at 104. [redacted]
¹⁰⁰ Id. Galbraith at 189-88. [redacted]
¹⁰¹ The [redacted]

Ambassador Galbraith has testified under oath that he had no role in the release of the missiles. In sum, the Majority's allegations that intelligence indicates Ambassador Galbraith was instrumental in releasing the missiles rest solely on unsupported accusations and not corroborated intelligence information. There is nothing but innuendo to suggest that Ambassador Galbraith facilitated the release of the missiles and the Minority chooses to base its conclusions on facts rather than innuendo.¹⁰²

The Lack of Impact Made of the [redacted]

The [redacted] missiles did not change the strategic balance within Bosnia. [redacted] At best, the [redacted] provided a morale boost to the Bosnian Muslims and a signal to the Croats that it would be against their interest to abandon the Federation. [redacted]

¹⁰² Galbraith Select Subcommittee Dep. At 187-88; Galbraith HPSCI Dep. at 22.
¹⁰³ Select Subcommittee Iranian briefing at 4.
¹⁰⁴ Id.

The Minority concludes that the United States involvement in this matter violated no international or United States law. The assistance provided in response to the Croatian request in determining the type of missile on board the cargo plane was appropriate and should have been made available to a United States ally with a similar question. The Minority also found no credible evidence to suggest that Ambassador Galbraith or any other United States official encouraged or facilitated the release of these missiles. In fact, had the United States attempted to block the missile shipment, the Nunn-Mitchell amendment likely would have been violated.

*Chapter Two
Section Eight*

THE FALL 1994 INITIATIVE

During the summer of 1994, the United States undertook an analysis of a possible covert action to arm the Bosnian Muslims. This option was rejected, however, because the United States determined it impossible to sustain such an activity for any extended period of time. In the fall of 1994, the United States also considered whether third countries should be encouraged to transport arms through Croatia to Bosnia. The "third country option" was initiated, in part, to respond to a proposal made by the Bosnian government to suspend its demands for lifting the embargo in return for an increase in arms shipments. This proposal also was rejected due to the risk that the allies would discover the arrangement and accuse the United States of a breach of the arms embargo.

During the fall of 1994, individuals within the CIA nevertheless became suspicious that U.S. officials, including Ambassador Richard Holbrooke, the new Assistant Secretary of State for European Affairs, were involved in a covert program to provide arms to the Bosnian Muslims for which a Presidential finding as required by law had not been made. The ██████████ reported on a series of incidents during the summer and fall of 1994 that he thought suggested senior U.S. officials were involved in such activity. Individuals within the CIA's Operations and Intelligence Directorates independently developed and reported to CIA leadership their suspicions about the activities of U.S. officials with regard to arms deliveries to the Bosnian Muslims. These suspicions were based in part on reporting by the ██████████ of intelligence and in part on comments and rumors conveyed to him by the Deputy Chief of

Mission at Embassy Zagreb (the "DCM").

In September and October 1994, various intelligence sources incorrectly reported that senior officials of the United States government were engaged in active negotiations with third countries to provide arms to the Bosnians. In reality, United States government officials were simply exploring options of whether and how the Bosnians might be armed. The exploration of options was, in part, a result of the pressure the Congress was putting on the Administration to lift the embargo.

Prime Minister Harris Siladzic and President Alija Izetbegovic, had approached

Ambassador Holbrooke and other U.S. officials with a proposal that the United States encourage third country arms supplies to the Bosnian military.¹ In return, Bosnia would delay for six months its calls for a lifting of the arms embargo. The United States entertained but did not agree to the proposal. Ambassador Holbrooke acknowledges that he was approached by Bosnian Prime Minister Siladzic regarding support for arms deliveries:

... when Prime Minister Siladzic approached us and asked if we would support his existing -- and I want to stress the word existing -- requests to countries for assistance to keep the government alive through the winter 94-95, I believed that the request deserved a favorable reply, provided it did not constitute a covert action. ... I played no role in developing a covert action plan or proposal, nor did anyone else in the United States government in the summer of '94.²

¹ This was not the first time the Bosnians had approached U.S. officials with this proposition. In Sept. 1994, Siladzic and Izetbegovic had proposed the 6 month moratorium in exchange for U.S. covert arms or continued supplies from third countries to Special Envoy Charles Thomas. Department of State Cable, Vienna 8242, Sept. 19, 1994.

² *Hearing on U.S. Actions Regarding Iranian Arms Shipments into Bosnia before the Senate Select Committee on Intelligence*, 104th Cong. 35, May 21, 1996 (statement of Ambassador Richard Holbrooke).

The intense level of activity undertaken by United States Government officials to determine whether third countries should be encouraged to transship arms, coupled with the incorrect understanding (of selected intelligence officials) about United States policy on the arms embargo, led to inaccurate intelligence reporting. The reporting caused unnecessary concern at CIA headquarters that the United States was planning and committing U.S. resources to an effort to ship arms to the Bosnian Muslims.

The suspicions were brought to the attention of James Woolsey, the Director of Central Intelligence (the "DCI" or "Director") who raised the issue with Anthony Lake, the National Security Advisor to the President. After a review of available information by the NSC staff, the NSC referred the matter to the White House Counsel who requested an investigation by the President's Intelligence Oversight Board (the "IOB"). The IOB found no evidence that U.S. officials were engaged in a covert action in Bosnia and no evidence that U.S. officials knowingly look any action to facilitate the transshipment of arms to Bosnia.³

Suspicious within the CIA

The [redacted] had been reporting on the issue of arms flows to the Bosnians since April 1994. He was aware of the "no instructions" response that Ambassador Peter Galbraith had delivered to Croatian President Tudjman in April in response to Tudjman's question regarding United States views on Croatia allowing arms to transit Croatia to Bosnia.⁴

³ Select Subcommittee Interview of Anthony Harrington, July 25, 1996, at 1-7 (Hereinafter "Harrington Int.").

⁴ See Section One, Chapter Two for a full discussion of the no instructions response.

He remained confused about United States policy on enforcing the embargo, however, and harbored suspicions that the United States Ambassador's actions may not have reflected actual U.S. policy.

Throughout the summer and fall, the [redacted] sought clarification from headquarters about United States policy with regard to the arms embargo, and he continued to bring to headquarters' attention incidents and reporting which he believed suggested that certain U.S. officials might be running a rogue arms supply operation. In addition to actual intelligence, the [redacted] based much of his reporting on information, gossip, and speculation by the DCM.

On September 30, 1994, [redacted] the Chief of the [redacted] Balkans Task Force informed Deputy Director of Intelligence Doug MacEachin (the "DDI") about his concerns that U.S. officials might be involved in brokering arms transfers to the Bosnian Muslims. According to MacEachin, [redacted] showed him cables dated from the beginning of May 1994. MacEachin testified that he had been briefed on these cables in May, but he did not read them until September 30, at which time he believed "reading [them] sounds worse than it did [previously]."

In particular, [redacted] described intercepted conversations that appeared to refer to an arms shipment involving the United States.¹⁴ MacEachin requested that [redacted] compose a

¹⁴ Select Subcommittee Deposition of Doug MacEachin, Sept. 6, 1994, at 29. (hereinafter "MacEachin Subcommittee Dep.")

memo on his concerns so that MacEachin could forward it to Director Woolsey. [redacted] testified that he wrote a memo on October 3, and on October 5, revised the memo at

MacEachin's request to include additional information from the Directorate of Operations. [redacted] MacEachin, in turn, forwarded the revised October 5 memo to the DCI. MacEachin testified that he was particularly concerned about [redacted] memo because the information had come from a variety of sources:

[redacted]

There is no indication that during this chain of events any input was sought or obtained from the General Counsel's office. The DDI recalls that at this time he, like others at CIA, were highly distracted by the Amana affair; it was all he could do to move the short memo along.

[redacted] Concerns.

1. On September 2, [redacted] reported Ambassador Richard Holbrooke, Assistant

[redacted] at 29-30

¹⁵ Senate Select Committee on Intelligence Interview of [redacted] May 31, 1996 (hereinafter "SSCI [redacted] Int.") memo contains information based on his own conversations as well as information culled from cables sent by the [redacted] and by the [redacted]

¹⁶ MacEachin Subcommittee Depn. at 94. MacEachin learned of the cables in May prior to accompanying the DCI to a meeting with the Secretary of State during which they were discussed in part.

¹⁷ U.S. Central Intelligence Agency Memorandum by [redacted] Oct. 5, 1994.

Secretary of State for European Affairs designate, regarding Bosnia. According to [redacted] Holbrooke was interested in the number of shipments reaching Bosnia. As a matter of practice, the CIA briefs all incoming Assistant Secretaries of State, and the [redacted] briefing of Ambassador Holbrooke was routine. MacEachin notes that [redacted] expressed no concern about Holbrooke or the conversation contemporaneous with the September 2 briefing. Only in hindsight did [redacted] consider his conversation worthy of reporting.¹¹ [redacted]

When Director Woolsey read the memo, he had a considerable basis of knowledge that his subordinates lacked. The DCI recalled that Richard Holbrooke, whom he had known for fifteen or twenty years, was

not only . . . showing up as Assistant Secretary [in September], but [he] was traveling to the region and talking to people, as was entirely appropriate, about this issue . . . Generally speaking, it seemed to me that he was being his typically very active self in acting around Europe and talking to allies and talking to the Bosnians about, what can we do to help? How can we change things? How we can affect things?¹²

In other words, the DCI was not alarmed by reports that Holbrooke was interested in

¹¹ MacEachin Subcommittee Dep. at 99.

¹² Select Subcommittee Deposition of James Woolsey, Sept. 13, 1996, at 45, 47 (hereinafter "Woolsey Subcommittee Dep.").

details on shipments reaching Bosnia.

2. Top [redacted] at Embassy Zagreb reported in a September 26 cable that Ambassador Holbrooke supported a continued flow of arms and that Bosnian President Izetbegovic had begun to talk of a six month delay in lifting the arms embargo in exchange for the delivery of weapons from East German stocks. The [redacted] also had reported that the Deputy Chief of Mission said that the proposed relocation of the Bosnian Embassy from Vienna to Split was designed in part to facilitate the flow of weapons to the Bosnians. [redacted]

Although the following information was not mentioned specifically in [redacted] [redacted], the September 26 cable also reported that the Deputy Chief of Mission told the [redacted] that Assistant Secretary Holbrooke indicated the French and British would look the other way.

The DCM expressed his own doubt about the allied reaction and said that an initial installment of \$50 million had been set aside by the U.S. Government for such a plan, for which Ambassador Galbraith was to act as a "focal point." According to the [redacted] the idea was pushed by Galbraith.¹³ [redacted]

In fact, Assistant Secretary Holbrooke was advocating a plan in which the United States would endorse the shipment of arms to Bosnia by third countries. [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

¹³ [redacted] Sept. 26, 1994 (hereinafter

[REDACTED]

¹⁷ The United States considered, but ultimately rejected the

Bosnian government proposal -- although the Administration did not formally notify the Bosnian Government of its decision. ¹⁸ The Bosnian Government proposal, even if implemented, would not have constituted a covert action. ¹⁹

3.

[REDACTED]

¹⁴ Department of State Cable, Vienna 8242, Sept. 19, 1994 (S).

¹⁵ Select Subcommittee Deposition of Assistant Secretary Richard Holbrooke, Sept. 27, 1996, at 42 (hereinafter "Holbrooke Subcommittee Dep.").

¹⁶ Id. at 44.

¹⁷ The definitions of and situations that constitute covert action are discussed in Chapter One, Section Five. In brief, the covert action rules do not apply when the activity is financed or undertaken by a third country. Even if a U.S. official were to request that a third country take such action, it would not constitute a covert action.

[REDACTED]

Both the third country option and the option of direct U.S. covert assistance were rejected. However, DCI Woolsey testified "although there clearly was some discussion of possibilities of military assistance in which [the Chief of the Balkan Task Force] and [the DDI] called to my attention early in October, it didn't strike me as anything more than exploring possibilities."²⁰ The DCI further explained why he took a benign view of the discussions by State Department personnel being brought to his attention:

[A]s a general proposition, it, in my judgment, would not have violated and does not violate the law for an Assistant Secretary of State or an ambassador to say to a Croatian, or for that matter a German or a Brit or a Frenchman, "Hey, should we think a covert action here to help the Bosnians?" That is the turf that I think -- at least that turf and quite possibly something rather more in the way of advocacy than that, that President Bush protected with the '91 veto."²¹

[REDACTED]

¹⁸ Woolsey Subcommittee Dep. at 47.

¹⁹ Id. at 63.

4.

[REDACTED]

5. [REDACTED] submitted a request for information about whether a covert U.S. program was underway. U.S. military commanders based in Naples with the Joint Task Force ("JTF") Provide Promise had been "picking things up" that suggested such activity might be occurring. Concerns about covert activity were based on unsubstantiated reports by personnel serving at the Naples facility.

[REDACTED]

[REDACTED] The [REDACTED] advised headquarters that the colored was preparing to brief Admiral Smith, the NATO Commander for Southern Europe (CINCSAEMUR) on the issue.

CIA headquarters was confident that the report was not true. In a reply cable on the same day, CIA headquarters labeled the report a "misconception." The cable noted that any covert action would require a finding, and that there was no such finding." The DCI testified that he had attended this principals meeting which had occurred in mid-September. The President did not attend, and no such discussion occurred."

6. [REDACTED]

[REDACTED] However, the United States had no role in the shipments.

* Woolsey Subcommittee Dep. at 48-49.

The CIA Leadership's Response

MacEachin, and others in DI knew of the April "no instructions" response and at the time had been anxious to ensure that the issue be brought to the attention of the DCI for clarification with National Security Adviser Lake and Secretary Christopher.

The April events did not appear to be a concern of the Director of Intelligence when the new suspicions arose in the late summer/early fall. [redacted] for example, included no reference to the April events in his memo to MacEachin. MacEachin, for his part, testified that he thought the April exchange had been clarified on May 5 when the DCI and Talbot spoke and the matter had been resolved. MacEachin "talked away" from the May 5 meeting "thinking the issue was over."²⁶ MacEachin offered:

Now did we see arms shipments? Yes. But we had been seeing some shipments before this. Not a huge volume, but everybody was trying to speak arms to every participant out there...the fact that it seemed to increase after that (May 5 meeting) was something that we watched, reported on routinely, measured, but I didn't associate that with this other discussion.²⁷

[redacted] For example, according to two memos for the file [redacted]

[redacted]

²⁶ MacEachin Subcommittee Dep. at 24.

²⁷ Id.

[redacted]

[redacted] In addition to Admiral Stuedeman and Mr. MacEachin, Under Secretary Tarnoff and representatives of the State Department's Bureau of Intelligence and Research attended these meetings.²⁸ In testimony, however, when asked if he was aware that in August and September "there were proposals very much on top of the table under discussion for whether there should be a covert action to provide arms," Mr. MacEachin replied: "No, I was not." He testified that he did not attend any meetings on the subject, and that he did not recollect any proposals.²⁹ He continued:

Now, it's possible that a meeting or meetings were held to work up a proposal. Quite frankly, it was more common for the proposals to be brought to us, not for us to go to somebody and say, I'd like to jump into this mud pool. I say all of that by way of saying, if there had been such meetings, why the hell would I be there... If there were meetings... I wasn't at them.³⁰

²⁸ U.S. State Department Memo to the Files, from Thomas Finger, August 26, 1994.

²⁹ U.S. State Department Memorandum to the Files, September 8, 1994.

³⁰ Id.

³¹ MacEachin Subcommittee Dep. at 93.

³² Id. Mr. MacEachin's sworn testimony contradicts the written record. Unlike the Majority, however, the Minority does not assume that contradictions among testimony or between testimony and the written record necessarily constitute false statements or require

Accordingly, [redacted] concerns were hitting Mr. MacEachin cold. [redacted]

As discussed above, MacEachin forwarded [redacted] memo to DCI Woolsey. The DCI sought to defuse the concerns and suspicions harbored by some at the CIA. First, the DCI was aware of the context for some of the reports, namely that there was consideration at senior levels of the U.S. Government of possible options to get arms to the Bosnian Muslims. For various reasons, perhaps including protection of the "need to know" criteria, some CIA officials simply were not aware that the U.S. Government was exploring options with regard to the arms embargo. The DCI, however, testified that when [redacted]

the extent of Holbrooke's travels and efforts came to the attention of the [Chief of the Balkan Task Force] in part through intelligence reports of what foreigners were saying about meetings and travel and so forth, [redacted] and this was one of the things that the [Chief of the Balkan Task Force] raised with the [DDI] and then the [DDI] with me, which led to the October 5th meeting with Lake... It didn't strike me as anything more than exploring possibilities.²²

Second, the DCI, himself a lawyer, had sufficient understanding of the distinction between diplomatic activity and covert action. He testified:

Well, I mean, it was not covert action to research. It is not even covert action to talk, if you speak diplomatically, to foreign governments about it. It is not even, according to the Bush veto -- protected by the Bush veto, it wouldn't even be covert action to urge covert action on a foreign government, if you were an American diplomat. It might get into covert action if you were concretely planning it and helping manage it.

But none of this traffic or the material in [redacted] memo seemed to suggest the latter... By that time, in terms of not embarking other barriers against other people, any other people sending weapons into Bosnia, that had been decided by the passage of Num-

farther investigation.

²¹ Woolsey Subcommittee Dep. at 46-47.

Mitchell... [redacted]

Director Woolsey also received legal advice from the CIA General Counsel, who had a part in drafting the Bush veto message of the FY 1991 Intelligence Authorization Act,²³ and therefore had extensive knowledge of the law as it related to covert action. The DCI was confident in the legal advice he was receiving. He did not expect, however, that the reports he was receiving should contain legal analysis. "I don't know whether they were [legally knowledgeable] or not; and in a way, it didn't matter... I wouldn't want my subordinates making fine-grain judgments about legalities in something like this and only giving me advice based on their own assessment of legal matters."²⁴

Third, the DCI attempted to get to the bottom of the reports by discussing them directly with Assistant Secretary Holbrooke. The DCI testified: "I imagine what triggered my getting in touch with Dick [Holbrooke] was probably this report back from Galbraith essentially denying [the allegation],"²⁵ and "more than likely, I called him on a secure phone and said, 'Hey, Dick, what's up?' Galbraith said you had this meeting, and did covert action come up?"²⁶

Bosnian officials had raised with Assistant Secretary Holbrooke and other H.S. officials a proposal that the United States encourage and support arms shipments by third countries to Bosnia. Bosnian officials may have been optimistic that the new Assistant Secretary would

²⁴ Woolsey Subcommittee Dep. at 68-69.

²⁵ See Chapter One, Section Five for a discussion of covert action.

²⁶ Woolsey Subcommittee Dep. at 62.

²⁷ Woolsey Subcommittee Dep. at 59.

entertain their proposal, and accordingly, their optimism and enthusiasm likely contributed to exaggerated and inaccurate reports that Assistant Secretary Holbrook agreed to the proposal or was doing much more than he was in fact doing.

Finally, the DCI raised the issue with National Security Adviser Lake in an attempt to clarify the situation and to separate rumor from fact. Director Woolsey and Mr. Lake discussed, among other things, the report from the [redacted] that the President had approved a covert action at a late August principals meeting attended by the DCI. The DCI did not in fact attend that meeting, and Mr. Woolsey believes, in only way to discredit the rumor was to check it out with Mr. Lake. Woolsey testified that if there was a "covert action that the CIA doesn't know about... he knew as well as I did... I had to report on it to the oversight committees." Mr. Lake confirmed that no covert was action underway, but the Woolsey-Lake conversation set in motion further investigation of the activities of U.S. officials with regard to the arms embargo. [redacted]

Members of the NSC staff reviewed documents made available to them by the CIA. Based on that review, and the CIA's ongoing concerns, National Security Adviser Lake referred the matter to the White House where White House Counsel Abner Mikva reviewed the documents and referred the matter to the IOB.³⁹

The Directorate of Operations's Concerns

³⁹ Woolsey Subcommittee Dep. at 68.

⁴⁰ See Chapter Two, Section Nine for a discussion of the IOB.

The Directorate of Operations was preparing a list of its own concerns at the same time that [redacted] was drawing up his list. On September 13, 1994, [redacted] the branch chief, wrote a memo to her superiors expressing her concern that a violation of United States law may have occurred. The basis for her concern was the [redacted] noble traffic.⁴⁰ The branch chief harbored suspicions that wrongdoing might be occurring. The branch chief's memo also recommends that the General Counsel's office be asked to render a legal opinion on the matter.⁴¹ There is no evidence to suggest that the General Counsel's office responded to her concerns, and the DCI testified that he did not recall being informed about either the reporting by the [redacted] or about the memo of the branch chief. After the [redacted] memo was referred to the NSC, the branch chief briefed the NSC on her suspicions. The reporting by the [redacted] was examined and, together with the branch chief's suspicions, formed the basis for much of the subsequent IOB and Congressional investigations.

Issues of concern to the branch chief and the [redacted] included: [redacted] 1. According to the [redacted] on or about July 4, 1994, Ambassador Galbraith asked [redacted] the CIA [redacted] if \$250 million would be enough to help the Bosnian Muslims. Ambassador Galbraith also asked if the Iranian arms deal was well known in Washington. The division chief told the Ambassador he was not aware of [redacted] as Deputy Branch Chief and subsequently Branch Chief, routinely reviewed and responded to the [redacted] traffic. [redacted] [redacted] regarding Iranian Arms Shipments, Sept. 13, 1994. [redacted]

these issues." ~~_____~~

Ambassador Galbraith did indeed discuss the issue of arms shipments to the Bosnian Muslims with ~~_____~~ as well as with the ~~_____~~ Balkan Task Force.⁴⁹ Ambassador Galbraith testified that the discussion was "an informational inquiry on my part."⁴⁹ Ambassador Galbraith was not asking the CIA to prepare a program to get arms to the Muslims. He was simply drawing on the analysts' expertise to better inform himself about the Bosnians' military situation.

2. In an August 31, 1994 cable, the ~~_____~~ reported that General Wesley Clark asked President Izebegovic in late August 1994 whether an "Afghan solution" would be acceptable to the Bosnians.⁴⁹ General Clark did meet with President Izebegovic and other Bosnian leaders during a late August orientation trip to Bosnia. The trip occurred in the wake of Congress' adoption of separate amendments requiring a unilateral lifting of the embargo. Much of General Clark's discussion focused on hypothetical discussions of lift and of alternatives to lift.⁴⁹ In response to Bosnian leaders' requests for United States assistance, General Clark offered his own opinion that clandestine support might be preferable to lifting the arms embargo.

~~_____~~ July 4, 1994

⁴⁹ Select Subcommittee Deposition of Ambassador Peter Galbraith, Aug. 19, 1996, at 83-84 (hereinafter "Galbraith Subcommittee Dep.").

⁴⁹ *Id.* at 84.

~~_____~~ Aug. 31, 1994

⁴⁹ Select Subcommittee Deposition of General Wesley Clark, Sept. 4, 1996, at 13 (hereinafter "Clark Subcommittee Dep.").

but stressed that he was "not empowered to make a decision."⁴⁹ ~~_____~~

3. On September 7, 1994, the ~~_____~~ reported that the Deputy Chief of Mission told him that Holbrooke is "driving a plan to arm the Bosnian Muslims," and that \$50 million has been set aside for that purpose. The ~~_____~~ also reported that the DCM informed him that Holbrooke said that covert arming of the Bosnians would get serious consideration in Washington, and that the plan would entail either having the United States military look the other way while third countries provided arms or "doing an Afghanistan."⁴⁹ ~~_____~~

In fact, Holbrooke and other United States Government officials were discussing hypotheticals on how the Bosnians might be armed. DCM Neitzke testified that the \$50 million referred to in the cable probably was the \$50 million provided in the Biden amendment to get arms to the Bosnians in the event of a lifting of the arms embargo.⁴⁹ The DCM denies providing the ~~_____~~ with many reports for which he is the alleged source, so it is possible that the remarks attributed to the DCM were not made.⁴⁹ ~~_____~~

4. On September 28, 1994, the ~~_____~~ reported that Ambassador Galbraith, preparing for a meeting with Assistant Secretary Holbrooke, asked the ~~_____~~ for

~~_____~~ Sept. 7, 1994

⁴⁹ Transcript of Meeting, General Clark Trip report, Aug. 26-27, 1994; From EUCOM/JTF LND, to LTG Wesley Clark and BG Edward Hailon, USMC.

~~_____~~ Sept. 7, 1994

⁴⁹ Select Subcommittee Deposition of Ronald Neitzke, Aug. 7, 1996, at 193 (hereinafter "Neitzke Subcommittee Dep.").

⁴⁹ Neitzke Subcommittee Dep., at 174, 175, 177, 178, 181, 184, 185, 192-193.

information on Middle East funding for Bosnian arms.⁵¹

In fact reporting on arms to Bosnia was a "compelling" issue for the CIA.⁵² Therefore, it would not be unusual for the Ambassador to ask the [redacted] for information on a subject that the CIA had designated to be a priority. The request for information would coincide with the discussions occurring within the U.S. Government on the feasibility of supporting the efforts of third countries to supply arms to Bosnia. The question by the Ambassador and the reaction of [redacted] illustrates their relationship. Clearly, the Ambassador respected the expertise of the [redacted] and relied on him for information on intelligence matters.⁵³ Nevertheless, the [redacted] filed a report on the request. This reaction suggests an extraordinary degree of mistrust on the part of the [redacted] and implies that no question, no matter how innocuous, by the Ambassador was above the suspicion of the [redacted].

5. On September 29, the [redacted] reported (based on [redacted]) that a U.S. Government official met with Defense Minister Susk and made a \$200-300 million offer of arms. The report caused "quite a stir" at headquarters.⁵⁴ Ambassador Galbraith was shown the cable that the [redacted] planned to send to headquarters on this issue, and acknowledged meeting with Defense Minister Susk and discussing several hypotheticals, but

[redacted] Sept. 28, 1994.

⁵¹ [redacted] Subcommittee Dep. at 68.

⁵² See Select Subcommittee Deposition of Janet Andrus, Sept. 30, 1996, at 54-55 opining that if an ambassador discussed such a closed subject as covert action with his [redacted] it was indicative of the ambassador's trust.

none that involved the United States supplying arms. Ambassador Galbraith objected to the cable being sent because it did not reflect actual events. When the [redacted] replied that he was sending the cable regardless, Ambassador Galbraith appended a message to the September 30 cable saying that "at no time was such a deal discussed."⁵⁵ Upon reading the cable and the appended message, DCI Woolsey took the view that:

When the [redacted] sent the report in, he appended the Ambassador's comment, which is the proper way to do it. And on that exchange, as I have said subsequently, I -- at headquarters, we believed the Ambassador, not the [allegation]... We did not disseminate this because we didn't think it was good intelligence based on what Galbraith said. In this case, we were told by one of the two American participants in the meeting that covert action had not come up and so [the allegation] wasn't true. So the [redacted] I think, quite appropriately appended the Ambassador's comment. Below my level they looked at it back at Headquarters and they determined... it was not in fact true.

Assistant Secretary Holbrooke also recalls discussing hypotheticals with Defense Minister Susk. Mr. Holbrooke further testified that he personally supported the idea of third countries supplying arms, but such a proposal was not ultimately adopted by the U.S. Government.⁵⁶

6. [redacted]

⁵⁵ [redacted] Woolsey Subcommittee Dep. at 54, 55, 56.

⁵⁶ Harrington Int. at 4; Holbrooke Subcommittee Dep. at 42-44.

In fact, Bosnian officials had proposed "a deal" in which the Bosnians would put a moratorium on their calls for a lifting of the arms embargo in exchange for U.S. support and/or encouragement of third country efforts to supply arms to the Bosnians. Assistant Secretary Holbrooke testified that specific numbers were not discussed and no deal was ever reached.

Assistant Secretary Holbrooke said that after Prime Minister Stizidzic asked the United States to support Bosnia's appeal to third countries for arms shipments, "I felt it was worth an affirmative response, so I began to staff it out with my Deputy Robert Frasure and other people. And as you know, it was decided not to proceed. My job was to staff out this proposal and my involvement in this was fully discussed with my colleagues on the seventh floor."

7. [REDACTED]

Oct. 7, 1994

SSCI Holbrooke Hearing at 58-59.

8. In early October, Assistant Secretary Holbrooke approached the DCI asking for guidance from the CIA's lawyers on what constitutes a covert action. The DCI told Holbrooke to speak to his own lawyers. State Department lawyers prepared a memo to Secretary Christopher regarding hypotheticals on covert action. Although the memo considered only hypotheticals, the conclusions strongly indicated to Assistant Secretary Holbrooke that requesting that a third country supply arms was not a covert action.

According to the DCI, on October 7, Assistant Secretary Holbrooke called to say that "he was ready to get together to with my lawyers to discuss the legal issue that he and I had been talking about, and I said that my general counsel had said that Mr. Ed Cummings in the legal advisor's office in the State Department knew the area as well as anyone in the U.S. Government. Ambassador Holbrooke said fine, he would talk to Mr. Cummings."⁴³ The DCI further testified that Mr. Holbrooke had told him that "the Secretary of State was entirely comfortable with what they, that is Holbrooke, was doing."⁴⁴

9. In November, Assistant Secretary Holbrooke asked Ambassador Calbreath whether he

⁴³ Harrington Int. at 4.

⁴⁴ Holbrooke Subcommittee Dep. at 24.

⁴⁵ Hearing on U.S. Actions Regarding Serbian Arms Shipments Into Bosnia Before the Senate Select Subcommittee on Intelligence, 104th Cong. 16-17 (1996) (statement of James Woolsey).

⁴⁶ Id. at 17.

could "trust his [redacted] The DCM reported this to the [redacted] who reported it by cable to Washington. Assistant Secretary Holbrooke told the IOB that he had asked Ambassador Galbraith this question because he had heard rumors of "active reporting of diplomatic communications" by the [redacted] IOB Chairman Harrington thought Assistant Secretary Holbrooke got this impression from his conversations with the DCI. In response to a question as to whether he had told a Croatian official that the [redacted] could not be trusted, Assistant Secretary Holbrooke responded: "You have got to be kidding... I don't know the [redacted] I never would say such a thing to a foreign official ever in any country." ~~10.~~

[redacted] In fact, President Clinton and President Tudjman did meet on September 26, 1994. However, the issue of covert arms was not raised. ~~11.~~

11. In the same meeting between General Clark and President Izetbegovic referred to in [redacted] President Izetbegovic told General Clark about two thousand tons of weapons destined for Bosnia were stockpiled in Maribor, Slovenia. The weapons were held up when fighting broke out between Bosnian Croats and Bosnian Muslims. President Izetbegovic requested U.S. intervention with the Slovanes to have the weapons released. General Clark asked if two thousand tons was enough to sustain the Bosnian Muslims to which President Izetbegovic replied "no." General Clark took the request back to General Shalikashvili and heard

⁸ Holbrooke Subcommittee Dep. at 24.

⁹ Memoon of Sept. 26, 1994 meeting between President Tudjman and the President. This is one of many examples in which information provided by [redacted] was inaccurate.

no more about it until Bosnian General Delic renewed the request in November 1994. To this day, Clark has no idea of the status of the weapons, but does not believe the U.S. facilitated the release of the weapons. ~~12.~~

While United States officials -- from the staff level to the most senior level -- engaged in hypothetical discussions about lifting the embargo and/or providing arms to the Muslims, no United States assistance was provided. The Minority finds no evidence that United States officials engaged in a covert action to provide arms to Bosnia. In addition, no United States officials knowingly took any action to facilitate the transshipment of arms to Bosnia. Even if United States officials had taken such action to facilitate the transshipment of arms, it would not have constituted a covert action.

¹⁰ Clark Subcommittee Dep. at 29-34.

THE INTELLIGENCE OVERSIGHT BOARD

The White House Chief Counsel convened an investigation of the Intelligence Oversight Board to review the activities of Ambassador Galbraith, Special Envoy Reaman and Assistant Secretary Holbrooke in the spring of 1994 and again in the fall of 1994. The Intelligence Oversight Board generally interviewed the same individuals as the Select Subcommittee. The IOB concluded that no probable cause exists to refer the matters under investigation to the Department of Justice, and the Minority agrees with the conclusion. The Minority also concludes that the CIA suspicions were unfounded, and that better communications between the CIA, the National Security Council and the Department of State could have obtained the need for an IOB investigation.

Purpose of the Intelligence Oversight Board.

The Intelligence Oversight Board ("IOB") was created in 1976 and the current Board was constituted in 1993 under Executive Order 12863. The IOB is charged with preparing reports specifically for the President "of intelligence activities that the IOB believes may be unlawful or contrary to Executive order or Presidential directive."¹ The Board is directed to refer reports to the Attorney General if it believes that wrongdoing may have occurred. The Board is designed to help the President to ensure that highly sensitive intelligence activities are conducted in compliance with the law, Executive order, and Presidential directive, while avoiding the referral

¹ E.O. 12863, 58 F.R. 48441 (1993).

of unfounded suspicions of illegality to the Department of Justice.²

The IOB has never released any report prepared for the President to the public. It did however, prepare a report specifically for release to the public relating to intelligence activities in Guatemala. No parallel can be drawn between the procedures on the Guatemala investigation and the Bosnia investigation. Before it began its investigation of the Guatemala case, the IOB committed to the U.S. citizen whose family was involved in the matter that findings would be made public, and it so informed those who were being interviewed in the course of the investigation.

The IOB is designed to provide the President with an independent review of intelligence activities and concerns.

The IOB's work on behalf of the President is ordinarily conducted in confidence and shared only with the President and his immediate senior advisors. As a matter of course, however, this Administration has sought to accommodate Congressional interest in the work of the IOB.³

Anthony Harrington, the Chairman of the IOB, briefed staff and offered to brief Members of the Select Subcommittee on its mandate and findings. The IOB also made available to the Select Subcommittee a list of individuals who, with very few exceptions, were the same individuals interviewed by the Select Subcommittee.

² The Intelligence Oversight Board fact sheet describes in detail what the IOB was designed to accomplish.

³ Letter from White House Counsel Jack Quinn to Rep. Lee H. Hamilton of Aug. 14, 1996, at 2.

Intelligence Oversight Board Investigation.

At the request of former White House Counsel Abner J. Mikva, the IOB investigated concerns raised by the Central Intelligence Agency ("CIA") that United States officials may have been involved in a covert action to send arms shipments to Bosnia without first obtaining the legally required Presidential finding. The Select Subcommittee has been briefed by the IOB on its investigation and has reviewed the list of persons interviewed by the IOB. In addition, the Select Subcommittee has reviewed many of the documents that were reviewed by the IOB.

The IOB's mandate was limited. The main purpose of the IOB investigation was to determine whether reasonable cause existed to refer the matter to the U.S. Department of Justice for further investigation. The IOB determined and reported to the President that such cause did not exist. Since the IOB found no reasonable cause for referral to the Justice Department, there was no need for public disclosure and the matter was closed. The IOB considered three sets of events for purposes of determining whether a covert action occurred. First, the IOB examined whether Ambassador Galbraith was directly involved in facilitating the movement of a particular convoy suspected of carrying arms to Bosnia.⁴ Second, the IOB investigated whether Ambassador Redman had provided direct assistance to the Bosnians through comments he made to President Trujman at the April 29, 1994 meeting.⁵ Finally, the IOB was to examine whether Ambassador Galbraith and/or Assistant Secretary of State Holbrooke made an offer of arms to the Bosnian Government.

The IOB found no evidence to suggest that U.S. officials had engaged in covert activities.

⁴ See Chapter Two, Section One for a detailed discussion of these events.

⁵ Special Envoy Redman's involvement with the May 1994 convoy is discussed in Chapter Two, Section Four.

IOB Chairman Anthony Harrington also reported that the IOB found that U.S. officials did nothing to request knowingly or otherwise facilitate the shipment of arms to the Bosnian Muslims during the time that the international arms embargo was in effect. As discussed in detail in Section Five of Chapter One, even if such facilitation had occurred, it would not have constituted a covert action.

The IOB concluded that during the late summer and early fall of 1994, the Administration was conducting a review of the options available to arm the Bosnians. Specifically, Assistant Secretary Richard Holbrooke had advocated a plan in which the United States would ask third countries, such as Saudi Arabia and Turkey, to supply arms to the Bosnians. He and other United States Government officials solicited Croatian and Bosnian opinions on "what it would take" to carry out such a plan. The plan ultimately did not go forward because of objections from National Security Advisor Anthony Lake and Secretary of State Warren Christopher. Administration lawyers concluded that even if a plan in which the United States requested others to supply arms did go forward, it would not have constituted covert action if the U.S. was not directly involved in providing those arms.

The IOB subsequently examined reports that U.S. officials helped to facilitate the transfer of ~~arms~~ munitions to Bosnia. The IOB concluded that there was no indication that Ambassador Galbraith pressed the Croatian Government into allowing the missiles into Bosnia.

The Select Subcommittee's mandate covers a much wider set of issues than that of the IOB. Accordingly, the Select Subcommittee's investigation is more exhaustive. Like the IOB, however, the Minority finds no reason to recommend further investigation by the Department of Justice or for that matter, any other body.

Chapter Three
Section One

IRANIAN INVOLVEMENT IN BOSNIA AND CROATIA 1991-1996

The Minority considers the assertion that the "no instructions" response opened the door for Iran to march into Bosnia and Croatia to be insupportable. The idea that the Iranian presence in Bosnia depends on two five minute discussions cannot be sustained under even the most intense scrutiny. Bosnia is a Muslim country. Iran was vocal in its support of Bosnia. Regardless of whether Ambassador Galbraith responded that he has no instructions, that the U.S. objects to the arms embargo against third countries, or that the U.S. supports third country shipments, Iran and other Islamic terrorist states would have access to Bosnia. What is indisputable is that the Iranian presence today is a fraction of what it was in the spring of 1994.

The Select Subcommittee investigated the implications of the Iranian arms transfers for the safety of United States troops, relations with United States allies and U.S. efforts to isolate Iran. More specifically, the Select Subcommittee considered whether the United States reply of "no instructions" to Croatia in April 1994, and Croatia's acceptance of covert arms shipments from Iran and other Islamic countries for transport to the Bosnian Muslims, gave Iran a "foothold" in Europe.¹ Indeed, Iran maintains a diplomatic presence in and has economic ties to

¹ See James Risen, *Administration Defends Its OK of Bosnia Arms*, Los Angeles Times, Apr. 6, 1996, at A1 (House International Relations Chairman Benjamin Gilman (R-NY) issued a statement that the Clinton policy has "given a terrorist regime a foothold in the Balkans"); See also, James Risen, *Gingrich Criticizes Clinton Over Bosnia*, Los Angeles Times, Apr. 11, 1996, at A12, (in which House Speaker Newt Gingrich (R-GA) said, "To wink and nod at Iran getting a foothold in Europe is extraordinarily dangerous.");

many other countries in Europe.² It strains credibility to suggest this single diplomatic exchange paved the way for Iran to establish a presence in Europe, especially in light of the fact that intelligence reports suggest Iran had contact with the Bosnian Muslim community as part of its general foreign policy since 1979 and, after the war began in 1991, became involved actively in the region.³ Thus, the decision among Iran, Croatia and Bosnia to re-open, in earnest, the arms pipeline in 1994 was made in the wake of numerous prior decisions that had established Iran's extensive network of activity and influence in the region. After 1994, observers noted an increase in the number of Iranians in the region, but there is no evidence that would link the increased Iranian presence with the arms pipeline.⁴ Since the Dayton Accord was signed in

¹ Briefing for Select Subcommittee staff, Sept. 11, 1996, at 2 (hereinafter "DCI Interagency Balkan Task Force Briefing").

² The report was transmitted to the Select Subcommittee on September 5, 1996, as follow-up to a briefing provided to the Select Subcommittee staff on August 21, 1996. See also, James Risen and Doyle McManus, *US Had Options to Let Bosnia Get Arms*, *Avond* *Lean*, Los Angeles Times, July 15, 1996, at A1, A6 (hereinafter "US Had Options"); John Pomfret and David Oranway, *US Aides Fed Pipeline of Covert Arms to Bosnia*, *Washington Post*, May 12, 1996, at A1; U.S. Department of State, *Basic Chronology of the Bosnia Arms Embargo*, *Jean Connection* (hereinafter "DOS Basic Chronology"). Many press reports and the Department of State Chronology trace Iranian involvement in the region to 1991, although little information on the extent of Iran's activities during this year is available.

³ Select Subcommittee Deposition of Stroke Talbot, Sept. 5, 1996, at 43 (hereinafter "Talbot Subcommittee Dep."); Representative Hamilton asked Talbot if the no instructions policy resulted in an Iranian foothold in Bosnia. Talbot replied that "their foot was already in the door, the Iranians had been active since 1991, had been present in Bosnia since 1991." See also Select Subcommittee Deposition of Peter Tarnoff, Sept. 13, 1996, at 20. Mr. Tarnoff was asked if the Iranian presence increased after the arms shipments in 1994 began. Mr. Tarnoff replied "It did not significantly increase associated with the shipment. . . . There was no evidence that there was significant increase in Iranians directly linked to the flow of arms." See also US Had Options in which a United States official commented, "The Iranians have done their best to

December 1995, the number of Iranians in the region has dropped to the lowest level since 1991.

In Bosnia, Iran used a blueprint typical of its operations in other countries with a Muslim population.³ This blueprint included arms shipments and military support, humanitarian relief, and the establishment of religious and cultural centers. The Iranians also bolstered their presence in the region through diplomatic and intelligence efforts.

Origins of Iranian Military Involvement

Iran offered Bosnian President Izetbegovic economic aid as early as 1991. By 1992, the first press reports of Bosnian Serb attacks on the government's Muslim forces reached Iran. The Iranian government harshly criticized the Serbs' actions and ceased exporting oil to Yugoslavia (Serbia and Montenegro).⁴ In August 1992, Iran deployed a fact-finding delegation to Bosnia to investigate the Muslims' condition.⁵ While in Bosnia, the delegation met with senior Bosnian and Croatian clerics and political leaders, as well as Bosnian Muslim refugees.⁶ The trip was reported widely in the Iranian press and galvanized strong public sentiment in favor of Iranian

burrow into Bosnia's military and intelligence services. That probably would have happened anyway, without the arms pipeline. The arms pipeline didn't establish an Iranian beachhead in Bosnia. The beachhead was already there."

³ Briefing, Sept. 11, 1996.

⁴ Defense Intelligence Agency, [redacted] Feb. 16, 1996 (hereinafter [redacted]).



intervention and military support for the besieged Muslim population.⁷

[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

Iran's Bosnian policy also included efforts to garner support for multilateral intervention to aid Muslims among the member-states of the Organization of the Islamic Conference ("OIC"). When support for formal, overt action was not quickly forthcoming, and the European and UN nations confirmed their intent to uphold the embargo, Iran decided to implement its policy unilaterally. Thus, Iran's intention to become more heavily involved in the region was firmly fixed more than two years prior to the April 1994 meetings between Ambassador Galbraith and U.S. Special Envoy Redman, and Croatian President Tudjman.

Military Arms

⁷ Defense Intelligence Report, [redacted] Feb. 16, 1996.



Iran began supplying clandestine military assistance to the region in 1991.¹¹ Following

the Bosnian declaration of independence in early 1992, arms shipments from several Islamic sources, including Iran, flowed into Bosnia.¹² [REDACTED]

[REDACTED]

By September 1992, Iranian arms shipments were flying into Croatia. In exchange for

Croatia allowing Iran to use its airfields, Iran provided Croatia with up to thirty percent of every arms shipment. On September 6, 1992, western and Croatian press reported that United Nations authorities discovered arms aboard an Iranian Boeing 747 that had landed in Zagreb.¹³ This report confirmed suspicions that Iran had been delivering arms to Bosnian Muslim forces via Croatia. [REDACTED]

¹¹ US Had Options at AI, which reports that Iran sent shipments of arms to the government of Bosnia beginning in 1991. See also DOS Basic Chronology (noting that small arms were smuggled into Croatia beginning September 1991).

¹² DOS Basic Chronology.

[REDACTED]

¹³ Douglas Jehl, Iranian Effort to Send Bosnia Arms Reported, Los Angeles Times, Sept. 10, 1992, at A1, A6.

[REDACTED] Despite the publicity generated by the illegal arms shipment, a United States demarche to Croatia and a United Nations Committee investigation into the matter, Iran was committed to assisting the Bosnian Muslims.¹⁴ [REDACTED]

[REDACTED] In addition to air cargo deliveries, Iran also attempted to send weapons to Croatia by sea.

In January 1993 in the last days of the Bush Administration, the Egyptian-registered cargo ship *Eco Sheriff* was bound for Croatia laden with arms and ammunition.¹⁵ After being challenged by ships enforcing the UN arms embargo, the *Sheriff* was ordered to unload its cargo in Turkey.

The search of its freight revealed small arms from Iran.¹⁶ [REDACTED]

[REDACTED]

¹⁴ DIA Cable [REDACTED]

[REDACTED]

¹⁵ Defense Intelligence Digest Weekend Edition, "Iraq: Situation Report," Jan. 17, 1993.

¹⁶ Id. See also Growing Military Involvement at 2.

incorporated religious indoctrination into the military training.³⁶

[REDACTED]

Iran used this leverage to urge the Hizballah to send foreign fighters to the region as

members of the Mujahideen. The effort was successful and a force of thousands drawn from

³⁶ Briefing [REDACTED]
³⁷ [REDACTED]
³⁸ [REDACTED]
³⁹ [REDACTED]
Sept. 11, 1996.

several pro-Iranian groups and other Islamic Opposition movements assembled in Bosnia.⁴⁰ The Mujahideen operated in small, cohesive units offering both their infantry skills and military training.⁴¹

Iran's military efforts and contributions to the Bosnian Muslims were notable.

[REDACTED]

Humanitarian Aid

Iran provided impressive amounts of humanitarian aid directly to Bosnia beginning in 1992.

[REDACTED]

⁴⁰ Alfred Prados, et al, Bosnia-Herzegovina: Foreign Islamic Fighters ("Mujahideen"), CRS Report 95-1203F, Jan. 29, 1996, at 3 (hereinafter "Prados"). The numbers for membership of the Mujahideen vary - a UN source estimated 1,000 members in October, 1995, while December news stories quoting European and UN officials estimated their strength at 2,000-4,000. Id.

⁴¹ Id. at 2.

[REDACTED]

[REDACTED]

In addition to the arms pipeline and shipping channels, Iran used private, quasi-legitimate humanitarian aid organizations to provide cover for arms shipments to the Bosnian Muslims.

The Third World Relief Agency, Mehandad and the Iranian-based humanitarian aid organization - the Red Crescent Society - were among those Iran utilized to funnel weapons and arms procurement funds to the Bosnian Muslims.⁴⁷ These organizations had offices throughout

Croatia and Bosnia from which they operated legitimate civilian aid projects including food and clothing delivery, opening clinics, and rebuilding structures and roads. These organizations also supplied the Bosnian Army with funds and weapons.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁴⁷ MDD Special Report, July 11, 1995. See also John Pomfret, How Bosnia's Muslims Dodged Arms Embargo: Relief Agency Bankrolled Aid from Muslims, Radical Groups. The Washington Post, Sept. 22, 1996 at A1 (hereinafter "Pomfret"). The Third World Relief Agency received donations from many Muslim governments and radical Islamic movements, a significant portion of which was used to purchase weapons illegally for the Bosnian Army. Id.

Diplomatic Activities.

Iran has continually spearheaded diplomatic efforts to encourage the United Nations and the OIC to become more actively involved in providing support to the Bosnian Muslims. On several occasions, Iran urged the United Nations to exempt Bosnia from the arms embargo, send troops to the region, enforce more vigorously the no-fly zone and accept Iran's offer to contribute 10,000 troops to UNPROFOR.⁴⁸ Iran also worked within the OIC urging member states to take action beyond the confines of those mandated by the United Nations Security Council and work to persuade the United Nations to approve a military force to intervene in Bosnia.⁴⁹ In December 1992, Iran was instrumental in achieving an OIC declaration calling for a lifting of the arms embargo.⁵⁰ In December 1994, the OIC adopted a resolution stating "it is neither legally or morally permissible" that the embargo be applied to Bosnia and Herzegovina.⁵¹ In June 1995, Iran campaigned within the OIC for a resolution declaring the UN arms embargo as "illegal" and pledging to provide additional support. By September 1995, Iran was among the OIC countries which established the Assistance-Mobilization Group ("AMG"). The AMG's mission was to supply military, economic, legal and other aid to the Bosnian Government.⁵² Additionally, Iran lobbied officials from the newly declared territories and the former Yugoslavia to take steps to

⁴⁸ [REDACTED] See also [REDACTED]

⁴⁹ Prados at 3.

⁵⁰ Id. at 2.

⁵¹ DIA Cable, Feb. 27, 1996.

end the Bosnian Serb aggression.⁴¹

[REDACTED]

Intelligence Activities:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Economic Support Activities:

One of President Izetbegovic's first trips abroad after being elected in 1992 was to Iran. Izetbegovic went to Iran seeking economic aid and other assistance for Bosnia's failing economy.⁴² In November 1992, Iran's Supreme Leader Khamenei bestowed a \$3.3 million contribution to the Bosnian government,⁴³ and in 1994, Iran's Foreign Minister, Ali Akbar Vahyati, delivered a check for \$1 million to Sarajevo with promises of more to come.⁴⁴ Throughout 1994 and 1995, Bosnia and Iran signed a series of economic agreements and announced plans for expanded economic ties.⁴⁵ Iran worked closely with Bosnia to promote economic cooperation and to examine potential trade and commercial relationships.⁴⁶

Iranian Influence Following the Dayton Agreement:

The level of military arms and personnel, humanitarian relief, diplomatic and intelligence activity and economic support provided or promised by Iran to Bosnia prior to May 1, 1994,

[REDACTED]

⁴² Pointnet at A1. See also Kitty McKinsey, *Bosnia Feared It Will Be Sliced Up by Croats and Serbs*, *The Ottawa Citizen*, at B5.

⁴³ Pointnet at A1.

⁴⁴ Iran's Wider Role.

⁴⁵ *Id.*

⁴⁶ DIA Document: Executive Highlights, Dec. 7, 1995.

leaves no doubt that Iran had established a foothold in Bosnia soon after the war began.

By the signing of the Dayton Agreement in December 1995, Iran had made vast

contributions to the Bosnian Muslims.

Iran's supply of arms won it praise from Bosnian President Izetbegovic for assisting the Muslims when other nations refused.

Throughout the Bosnian conflict, the United States has been concerned about the Iranian

presence in and relationship with Bosnia. Continued war and instability offered Iran an opportunity to exert its influence. According to Deputy Secretary of State Strobe Talbott,

however, the only way to get the Iranians out was through the peace process.⁴⁷ Consequently, the U.S. insisted on the inclusion of a provision in the Dayton Peace Agreement that required the removal of "foreign forces" from the region before implementation of the U.S. equip and train program.⁴⁸ The promise of an equip and train program for Bosnia gave the U.S. leverage to insist

⁴⁷ Military Intelligence Digest, [redacted] Apr. 3, 1996.

⁴⁸ Response to House International Relations Committee request for information, Estimated Number of Iranians in Croatia and Bosnia and Herzegovina, 1994-1996.

⁴⁹ Talbott Subcommittee Dep. at 42.

⁵⁰ See Dayton Peace Agreement Article III of the Annex on Military Aspects, paragraph one that states "All Forces in Bosnia and Herzegovina as of the date this Annex enters into force

upon the departure of the Iranians.

Had the United States responded negatively to the Tudjman request in April 1994, the Croats would have been unlikely to allow weapons to transit Croatia. The war might have dragged on even longer, enabling the Iranians to establish themselves more firmly in Bosnia, and depriving the United States of leverage with which to mitigate the Iranian's influence. Conversely, if the United States had responded positively to the Croatian request, the Croats and Bosnian Muslims would likely have perceived a U.S. endorsement of Iran's activities in the region.

Since the spring of 1996, U.S. officials have reported a significant reduction in foreign forces. Strobe Talbott characterizes their presence today as "minimal in the extreme and acceptable under the terms of the Dayton accords, which are quite stringent with regard to obligating the Bosnian Government to get rid of all but a traditional diplomatic presence."⁵¹

Although some press reports have described a continuing presence of Iranians in the region and a lingering Mujahideen influence in Bosnia,⁵² National Security Advisor Anthony Lake advised the Select Subcommittee that the Bosnians have a "perfect track record" of expelling Iranians who

which are not local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska, shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty days." Paragraph two reads, in part, "all foreign Forces, including individual advisors, freedom fighters, trainees, volunteers, and personnel from neighboring and other States, shall be withdrawn from the territory of Bosnia and Herzegovina; see Also Pados at 5.

⁵¹ Talbott Subcommittee Dep. at 44.

⁵² Philip Smucker, Bosnia Terrorized by Foreign Soldiers Who Aided Muslims, Washington Times, Aug. 8, 1996, at A13; Majority Report at 182.

have shipped back into Bosnia in violation of the Dayton Peace Accords.⁷¹ Deputy Assistant Director of the National Security Council Samuel Berger confirmed that a vigorous dialogue between the United States and Bosnia has been maintained to insure Bosnia's adherence to the Foreign Forces provision of the Dayton Accords.⁷²

Iranian Failure to Achieve its Objectives in Bosnia.

In conclusion, Iran has achieved only limited objectives in Bosnia, including establishing a small diplomatic and cultural presence. Although Iran remained a friend of Bosnia when many other countries refused to aid the Bosnian Muslim cause, Iran has realized less than it hoped to show for its efforts. The arms shipments provided to the Bosnians and Croatians came primarily from outdated stockpiles and Iran paid for the cargo costs without receiving funds in return. The majority of the economic deals were concluded with Bosnia and Croatia as a symbol of solidarity and have little financial value. With the recent Administration decisions to subsidize countries with heavy investments in Iran, it may be even less likely that Croatia and Bosnia will enter into meaningful economic programs with Iran. Even among the Islamic countries, Iran was not the

⁷¹ Select Subcommittee Interview of Anthony Lake, Sept. 26, 1996, at 4 (hereinafter "Lake Subcommittee Int.").

⁷² Select Subcommittee Interview of Samuel Berger, Sept. 25, 1996, at 6.

primary source of all aid to the Bosnian Muslims and its calls for more activist approaches to the conflict went unheeded by the majority of the Islamic states.

Iran had little hope of success within Bosnia for the establishment of a fundamentalist Islamic state. An October 1994 intelligence report analyzed this concern and found it highly unlikely that the Bosnians, who are not the same sect as the Iranians, would succumb to fundamental Islam. The report explained that the term "Muslim" was more of an ethnic rather than religious denominator in the former Yugoslavia and that most "Muslims" generally were unaware of their religious heritage because two generations had grown up without any religious education.⁷³

Western journalists, the report noted, were concentrated in Sarajevo where it was most likely that they would see Muslims practicing their religion and therefore, it was reported that Islam was spreading throughout the country.⁷⁴ The Serbs also were aware of European concerns about the spread of Islamic fundamentalism and they continued to make and exploit fears of Islam in hopes of diminishing support for the Bosnian Muslims.⁷⁵ The Iranians were largely unsuccessful in converting the primarily secular Bosnian Muslims to fundamentalist practice. It is also important to note that there was not a single faction within the Bosnian government who aligned themselves with the Iranians in a desire to prolong the Bosnian conflict in order for Iran

⁷³ INR Report to the Assistant Secretary, Oct. 31, 1994 (S).

⁷⁴ *Id.*

⁷⁵ *Id.*

to spread its influence beyond the region.⁷¹ As former U.S. Special Envoy to the Former Yugoslavia Reginald Bartholomew⁷² stated: "There is no way that the Muslims could create a fundamentalist state . . . in the Balkans."⁷³

Chapter Three
Section Two

THE THREAT OF TERRORISM TO EMBASSY ZAGREB PERSONNEL

The threat of terrorism was a serious concern in Bosnia and Croatia throughout the war.

The Minority does not believe that any attempt should be made to minimize the threat.

However, the terrorist threat was probably no greater than the threat against American civilian, military and intelligence personnel in Athens, London, or in any capital which has been the target of internationally known terrorist groups. No additional terrorists entered Bosnia or Croatia as a result of the "no instructions" response. People with extreme anti-American views already were in the two countries and will remain so. The Minority believes that the United States must be vigilant against terrorism -- as was the case in Zagreb and in Sarajevo -- but the threat of terrorism cannot prevent the United States from pursuing its interests in Zagreb, Sarajevo or anywhere else.

The potential consequences of the April 1994 "no instructions" response that caused the gravest concerns to the Administration were the reaction of our allies and the role of the Iranians. With respect to the latter, each of the principal decision makers in the formulation of the "no instructions" response was well aware that Iran would be a major supplier of arms if the Government of Croatia agreed to serve as a transshipment point.¹

The involvement of the Iranians in supplying arms could improve their access to government leaders in Croatia and Bosnia-Herzegovina and enhance their importance to such

¹ Select Subcommittee Deposition of Assistant Secretary of State Peter Tarnoff, Sept. 13, 1996, at 19 (hereinafter "Tarnoff Subcommittee Dep.>").

⁷¹ IHR Morning Briefing for the Secretary of State, Sept. 23, 1993 (TS U G NF NC ORCON)

⁷² Department of State Cable, Apr. 2, 1993 (Comments by Reginald Bartholomew).

leaders. Clearly, these were significant downsides to the "no instructions" response which had to be weighed against the critical need of allowing the transshipment of arms for Bosnians in a manner that minimized the potential for allied objections.

The involvement of the Iranians posed another, and equally important, potential problem. The presence of Iranians inevitably raised the specter of terrorism. The Administration, like each previous Administration, considered Iran to be the "single most dangerous [state] in terms of its support for international terrorism."² Thus, any action such as providing U.S. ground troops as part of the IFOR force or, in the case of the "no instructions" response, any inaction that might contribute to an increased Iranian presence in proximity to people and property of the United States had to be taken with the utmost caution.³ As described in the following section, the threat of Iranian terrorism has declined substantially since 1994. There are other sources of terrorist threats in the region besides Iran. The Minority believes that all threats of terrorism in the region must be taken seriously and guarded against vigilantly.

In order to evaluate whether the Administration exercised the requisite degree of care, a distinction must be drawn between the extent to which the "no instructions" response resulted in an increase in the flow of Iranian arms to Bosnia and Croatia and/or an increase in the presence of Iranians in Bosnia and Croatia. The first issue is a military and political question; i.e., will the

² Select Subcommittee Deposition of Deputy Secretary of State Strobe Talbott, Sept. 5, 1996, at 51 (hereinafter "Talbott Subcommittee Dep.").

³ See Chapter Three, Section Three for a discussion of the United States commitment of troops to the IFOR force and the steps taken by the United States to mitigate any terrorist threat to the Armed Forces before they were deployed to Bosnia in December 1995.

arms help the Bosnian Muslims to survive and will the arms flows cause a serious disruption with our allies? The second issue is a security question; i.e., will more Iranians with terrorist inclinations enter Bosnia and Croatia?

[REDACTED]

Iranian Terrorist Presence in Bosnia.

[REDACTED]

[REDACTED] The table was included in a memorandum transmitted to the Select Subcommittee by the CIA in response to a request for information on Pakistan's arms sales to Bosnia from June 1993 to December 1996.

¹ DCI Interagency Balkan Task Force

[REDACTED]

[REDACTED]

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[REDACTED]

Iranian Terrorist Presence in Croatia.

[REDACTED]

* CIA Table, Aug. 19, 1996.

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563

[REDACTED]

1993 Terrorist Incident.

[REDACTED]

[REDACTED]

302

562

[REDACTED]

[REDACTED]

301

1993 Terrorist Threat

According to Intelligence Research specialists with the Office of Intelligence and Threat Analysis at the Department of State, security threats increased at Embassy Zagreb in 1995.³¹ The threats came from many sources, the Iranians in general and HAMMAS and Hezbollah in particular, but also involved surveillance of the Ambassador by the Egyptian organization al-Gama' at al-Islamiyya.³²

[REDACTED]

Unlike the 1993 incident, the 1995 incidents were not "operational," but the specialists could not determine if the Iranian activity was either "pre-operational" or simply information gathering. The incidents were, however, consistent with the evidence of world-wide surveillance

³¹ Select Six committee interview of Maria Barton, Intelligence Research Specialist, Office of Intelligence and Threat Analysis, United States Department of State ("USDS 7," and Paul Vogel, Senior Desk Officer, Diplomatic Security, Overseas Program EDK, USDS, Oct. 3, 1996 at 2 (hereinafter "Diplomatic Security Briefing").

³² Id.; Galbreath Subcommittee Dep. at 181.

³³ The U.S. Department of State specialists did not know if the additional information about Zagreb was due to greater activity in Zagreb or greater reporting from Embassy Zagreb. In the deposition of [REDACTED] he indicated that U.S. Department of State worldwide alerts about Iranian terrorist threats were due, in part, to Zagreb reporting which suggests that more was known about Zagreb as a result of the quantity of reporting rather than to a higher degree of terrorist activity.

³⁴ Id.

being conducted by Hezbollah. Needless to state, the fact that Embassy Zagreb was one of many United States Embassies throughout Europe and the world subjected to Hezbollah surveillance does not lessen the risk or the need to respond, but it does suggest strongly that the delivery of the "no instructions" response twelve months earlier was not related causally to the current terrorist threat.³⁵

Embassy Zagreb Response.

[REDACTED]

³⁶ At the affected Embassy, an Emergency Action Committee ("EAC") consisting of the Ambassador, the Deputy Chief of Mission ("DCM"), the [REDACTED] and the RSO is established to monitor the threat.

[REDACTED]

³⁷ Subcommittee Dep. at 71.

³⁸ Herick Subcommittee Dep. at 78; Select Subcommittee Deposition of [REDACTED] Aug. 9, 1996, at 142 (hereinafter "Subcommittee Dep."); [REDACTED]

³⁹ Herick Subcommittee Dep. at page 79; Select Subcommittee Deposition of Charlotte Sottman, Aug. 10, 1996, at 94 (hereinafter "Sottman Subcommittee Dep."); [REDACTED]

567

[REDACTED]

[REDACTED]

306

566

[REDACTED]

[REDACTED]

305

[REDACTED] ~~SECRET~~

Current Status of Iranian Terrorist Threat.

The Select Subcommittee questioned [REDACTED] in Bosnia, about the presence of Iranians. [REDACTED] replied that there are "many less [Iranians] now than there were at one time."⁴⁸ Although [REDACTED] thought the number was small, he cautioned that some of the few Iranians who remained might be "terrorist trained."⁴⁹ The presence of the Mujahideen, of whom only a small percentage are Iranian, is far greater in Bosnia at the current time.⁵⁰

The Select Subcommittee also questioned the current Regional Security Officer of Embassy Zagreb about the terrorist threat in Croatia. The RSO responded that the last terrorist action occurred in September 1995 at a Rijeka police station which is located far from the embassy. The RSO also stated that no further incidents of surveillance of the Ambassador or of embassy vehicles had been reported since the summer of 1995; nor have any complaints of surveillance or other suspicious activity been filed or otherwise brought to the attention of the RSO by Embassy Zagreb personnel. The RSO advised the Select Subcommittee that security concerns have changed dramatically, and the threat has dropped very rapidly.⁵¹

⁴⁸ Select Subcommittee Interview of Robert L. Davis, Supervisory Special Agent, U.S. Department of State Diplomatic Security Service, Oct. 4, 1996, at 1 (hereinafter "Davis Subcommittee Int.").

⁴⁹ Subcommittee Dep. at 42.

⁵⁰ [REDACTED]

⁵¹ [REDACTED]

⁵² Select Subcommittee Interview of William Root, Regional Security Officer at Embassy Zagreb, Aug. 8, 1996 (hereinafter "Root Subcommittee Int.").

Chapter Three
Section Three

IFOR DEPLOYMENT AND POTENTIAL RISKS TO UNITED STATES TROOPS AND PERSONNEL

In December 1995, following the signing of the Dayton Peace Accord, the United Nations Security Council passed Resolution 1031 authorizing a one-year deployment of an Implementation Force ("IFOR") to the Balkans to implement the military aspects of the peace plan.¹ The resolution mandated the United Nations peacekeeping force, UNPROFOR, to transfer its operational authority to IFOR, action which occurred December 20, 1995.

Mission of IFOR.

The primary mission of IFOR is to execute the military facets of the Dayton Peace Accord which would establish the climate for civilian peace measures to take hold and prosper. To this end, the duties of IFOR included overseeing the withdrawal of Bosnian Federation and Bosnian Serb Army forces along the zone of separation and the demobilization of their respective forces.² The ongoing mission also includes enforcing the cease-fire agreement, monitoring the restrictions on airspace, overseeing the release of prisoners of war, and participating in demining

¹ United Nations Security Resolution 1031, passed December 15, 1995. Article II authorizes the establishment of a multinational implementation force to undertake the military aspects of the Dayton Peace Accord.

² Implementation and Future Prospects for the Dayton Accords, 104th Cong., 2nd Sess. July 24, 1996, at 1 (Testimony of Lt. Gen. Patrick Hughes, Director, DIA).

efforts.⁷ These military efforts will pave the way for the implementation of the civilian aspects of the Dayton Peace Accord including refugee repatriation, establishing complete freedom of movement, revitalizing the economy and restructuring the government.

The IFOR mission includes over 60,000 international troops, many of whom were transferred from UNPROFOR to IFOR control, and others which were newly deployed. Every NATO country with armed forces, as well as some non-NATO countries, including Russia, Egypt, Pakistan and Malaysia, participated.⁸ The United States announced full IFOR deployment on February 16, 1996 at a level of 20,000 troops.⁹ Of this total, 17,000 were deployed to Bosnia; 4,400 were posted in Hungary; and 2,100 in Croatia.¹⁰

Clinton Administration Support for United States Troops in IFOR.

During the war, the Clinton Administration had been reluctant to commit any United States ground troops to the UNPROFOR peacekeeping force. The Administration preferred to work with its NATO allies towards a negotiated settlement because "the United States could not force peace on Bosnia's warring ethnic groups."¹¹ Once the peace process among the warring

⁷ Steven Woehnel and Julie Kim, *Bosnia-Farmer Yugoslavians and United States Policy*, CRS Issue Brief IB91089, June 4, 1996, at 8 (hereinafter "CRS Report").

⁸ NATO's Role in the Implementation of the Bosnian Peace Agreement, No. 11, NATO Fact Sheet, January 1996, World Wide Web at <http://www.wm.cdrnato/doc/factw/11.htm>.

⁹ CRS Report at 12.

¹⁰ *Id.*

¹¹ President William J. Clinton Addressing the Nation on National Interests in Bosnia, Nov. 27, 1995, at 4 (hereinafter "November 1995 Presidential Address").

actions was underway, President Clinton said he would consider sending United States troops to take part in a multilateral peacekeeping mission in the event that all parties reached a negotiated settlement.¹²

As the parties moved toward the signing of the Dayton Accords, the President remained in close communication with Congress and the nation about the potential deployment of United States troops. On November 13, 1995, President Clinton sent a letter to the leadership of the House of Representatives outlining the sequence of events that led to the formation of IFOR and United States interests in participating in such a force.¹³ On November 27, the President delivered a televised address to the nation outlining national interests in Bosnia, and why United States participation in IFOR was essential to its success.¹⁴ Clinton termed United States participation in IFOR as America's responsibility to "turn this moment of hope into an enduring reality" and claimed the United States could help "end the terrible suffering of the people, the warfare, the mass executions, the ethnic cleansing, the campaigns of rape and terror."¹⁵ The President pledged that the IFOR mission would be clearly defined with realistic goals and that United States should "make the choice for peace."¹⁶

In a press conference following the signing of the Dayton Peace Accord on December 15,

¹² Julie Kim, *Bosnia and the 104th Congress: the Implementation Force (IFOR) and its Possible Successor*, CRS Report 96-723, Aug. 29, 1996, at 3 (hereinafter "CRS IFOR Report").

¹³ CRS IFOR Report at 9.

¹⁴ *Id.*

¹⁵ November 1995 Presidential Address.

¹⁶ *Id.*

1995, President Clinton pledged United States participation with other countries in implementing the terms of the peace agreement stating, "we will send you our most precious United States resource, the men and women of our armed forces."¹¹

Congressional Action on Troop Deployment.

In the Congress, the emerging peace negotiations shifted the focus of debate from the arms embargo to the United States role in implementing the peace process. Much of the Congressional debate focused on whether a United States presence in the Balkans was a national security interest significant enough to justify any potential hazard that may befall United States troops and personnel stationed in Bosnia, and to offset the cost to the United States taxpayer of United States deployment.¹² Many Members of Congress were skeptical about the deployment and Congress debated a series of measures in the fall and winter of 1995 - both binding and non-binding - to impose parameters on United States troop contributions to IFOR.

Even while peace talks were underway in Dayton, the United States Congress was quick to take action to preclude the involvement of United States troops in any peacekeeping mission in the region. In the first of several debates on the issue the House of Representatives approved a resolution (H. Res. 247) on October 30 that stated there should not be "a presumption" by the parties to the peace talks that United States troops would participate in peace enforcement in

¹¹ CRS IFOR Report at 12. See also Wolf Blitzer, *Clinton Urges Warning Sides to Enhance Peace*, CNN, Dec. 15, 1995 (discussing the United States role in IFOR).

¹² Congressional Record S15374 (daily ed. October 20, 1995) (statement of Senator John Warner).

Bosnia.¹³ This resolution also aimed to ensure that Congress would be a party to any decision of United States Armed Forces deployment, and noted that no troops should be deployed in the absence of a resolution passed by the Congress authorizing such action. The House adopted this resolution easily by a vote of 315-103. In November, the House considered legislation (H. Res. 2605) to prohibit funds for a United States peacekeeping mission in Bosnia.¹⁴ Again, the legislation passed by a vote of 243-171.¹⁵

The Senate also was actively considering troop deployment measures. On December 13, 1995, the day before the formal signing in Paris of the Dayton Accord, and immediately prior to the scheduled deployment of United States forces, the Senate considered several measures. First, the Senate debated and adopted H. R. 2606, legislation the House passed the preceding month to prohibit funds to be obligated for United States troops in Bosnia, unless such funds were specifically authorized for that purpose. In an attempt to balance conflicting sentiments about the deployment, the Senate rejected a resolution (S. Con. Res. 35) that opposed President Clinton's decision to deploy troops to Bosnia, but also noted that "Congress strongly supports" the United States troops ordered there. Finally, the Senate approved a resolution (S. J. Res. 44) by a vote of 69-30 that had been offered by Senators Dole and McCain which stated Congress "unequivocally" supported the United States armed forces who would be sent to Bosnia to participate in IFOR, but did not formally authorize their deployment and set conditions and

¹³ CRS IFOR Report at 13.

¹⁴ *Id.*

¹⁵ *Id.*

limitations on their involvement. The resolution included a requirement that the United States lead an effort to "equip and train" the Bosnian Government forces so that the newly established Bosnian-Croat Federation would be able to provide its own defense in the future.¹⁸

The House also was busy on December 13, 1995: three resolutions were debated. The House rejected H.R. 2770, to prohibit federal funds from being used for the deployment of United States troops on the ground in Bosnia. Immediately thereafter, the House passed H.R. 304, which purported to support the United States troops in Bosnia but expressed opposition to the decision by the President to send them overseas. In effect, H. Res. 304 modified H.R. 2770 which would have cut off all funding for the American troops on the ground. After approving the resolution, the House rejected legislation sponsored by Rep. Hamilton (H. Res. 305) that "unquivocally" expressed support for the Armed Forces carrying out their mission in Bosnia.¹⁹ Rep. Hamilton offered his resolution in order to express to the United States troops heading for Bosnia that regardless of congressional differences over the policy decision, Congress should "conclude on a unanimous vote [of] support of the troops."²⁰

Information to Congress on Troop Deployments

In response to Congressional concerns about United States ground forces deployed as part of the IFOR contingent, Secretary of State Christopher, Secretary of Defense Perry, and

¹⁸ CRS IFOR Report at 14.

¹⁹ *Id.*

²⁰ Cong. Rec. H14871(daily ed. December 13, 1994)(statement of Rep. Lee Hamilton).

Chairman of the Joint Chiefs of Staff General Shalikashvili appeared at numerous hearings in October and November 1995 to assure Members of the House and Senate that United States participation in IFOR was necessary and that the United States was committed to minimize any potential threat to the troops.²¹ For instance, when questioned about how the United States troops would be protected, General Shalikashvili responded that United States commanders have pursued "all available courses" to mitigate risks to United States troops.²²

The Defense Intelligence Agency and the Joint Staff provided more than ten briefings regarding IFOR to Congress in both classified and unclassified formats.²³ The first briefings held in early November 1995, provided a thorough review of the IFOR mission, analyzed potential threats to IFOR and United States troops, discussed the intelligence support that would be provided to IFOR, and addressed the military equipment to be used to ensure that the risks to United States personnel were minimized. Although the Administration was attempting to sway skeptics in Congress, every briefing included a discussion of the threats to IFOR and how those threats would be minimized.

The threats of indirect fire, land mines, the presence of extremist elements including the

²¹ CRS IFOR Report at 8.

²² Notes of testimony of General Shalikashvili, Hearing on United States Policy Towards Bosnia before the House International Relations Subcommittee on International Organization, Nov. 30, 1995.

²³ Notes of Department of Defense briefings to Congress: DIA, Joint Staff, Office of Under Secretary of Defense (Policy) Nov. 2, 1995 - Jan. 25, 1995 (hereinafter "DOD Briefings, Nov. 1995-Jan. 1996").

Mujahideen², civil disorder, and hostage taking by independent elements were among those consistently discussed.²¹ In classified briefings, Administration officials specifically addressed the threat posed by foreign Islamic groups - both military and intelligence - including those of Iran.²²

[REDACTED] The briefings continued throughout January 1996, after United States troops were deployed to IFOR in order to make sure Congress was informed of the most current information on the progress of the IFOR mission in Bosnia and the status of United States troop safety and activities.²³

Dayton Agreement Provisions to Protect IFOR

Consistent with the United States policy of isolating Iran, and in response to specific concerns about the safety of United States troops, the United States has been particularly diligent in making sure the Dayton signatories comply with the so-called "foreign forces" provision in the

²¹ The Mujahideen were loosely organized freedom fighters from a variety of Islamic countries, most of whom had served in the war in Afghanistan.

²² DOD Briefings Nov. 1995-Jan. 1996.

²³ Notes of DIA Briefing to the Senate and House of Representatives on Bosnia, Jan. 5, 1995 (hereinafter "Joint Jan. 5, 1995 Briefing").

²⁴ Id. Joint Jan. 5, 1995 Briefing.

peace agreement.²⁴ This provision requires the removal of foreign forces from Bosnia, a catch-all phrase meant to include the volunteer Mujahideen forces, foreign Islamic fundamentalist forces, the Iranian military, and other extreme elements who had come to the region during the conflict to volunteer with the warring factions.

As leverage to ensure compliance with this provision, the United States has linked the removal of foreign forces, in particular Iranian volunteer forces, with the receipt of United States aid. This strategy has been successful, and although the Bosnian Government was slow to pressure the foreign fighters to leave their territory after the Dayton Agreement was signed, it has made significant strides in the ensuing months. On June 7, 1996, President Clinton provided certification that the number of foreign forces remaining in Bosnia was low enough to trigger the United States "equip and train program" to proceed.

²⁴ See Dayton Peace Agreement Article II of the Annex on Military Aspects, paragraph one, that states "All Forces in Bosnia and Herzegovina as of the date this Annex enters into force which are not local origin, whether or not they are legally and militarily subordinated to the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, or Republika Srpska shall be withdrawn together with their equipment from the territory of Bosnia and Herzegovina within thirty days." Paragraph two reads in part, "All foreign Forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other States, shall be withdrawn from the territory of Bosnia and Herzegovina."

CHAPTER FOUR
RESPONSE TO THE MAJORITY CONCLUSIONS REGARDING
FALSE TESTIMONY, CLASSIFICATION AND EXECUTIVE PRIVILEGE

This Section does not seek to address the numerous factual and analytical errors, false claims, and inconsistencies in the Majority's report. Errors in the Majority's report are noted throughout the Minority views. This Section addresses three specific charges lodged by the Majority that the Administration impeded the progress of the Select Subcommittee's inquiry. The Majority report alleges that certain Executive Branch officials made false statements to the Subcommittee; it asserts that the Administration has manipulated the classification rules to hide embarrassing information; and it contends that the Administration improperly invoked executive privilege. The Minority is of the firm view that the Majority report is wrong on each of these points.

Reverts to the Department of Justice.

The most inflammatory aspect of the Majority report is its referral of certain matters to the Justice Department for further inquiry. The Majority asserts that several Executive Branch officials gave inconsistent testimony to the Select Subcommittee and suggests the possibility that some of these officials might have perjured themselves. This reckless allegation is wholly unsubstantiated. It casts aspersions on the character of dedicated public servants who performed their duties in difficult and at times dangerous circumstances for what we can only assume to be the Majority's short-term political advantage. With all due respect, the Minority regards these allegations as shameful.

Because the testimony giving rise to the Majority's charge is itself classified, the Majority has denied those it is accusing the ability to defend themselves publicly until such time as the report is declassified. But it is possible to describe in general terms the Majority's principal allegation: that various participants have differing recollections of conversations that took place in the spring of 1994. This allegation does not remotely support a criminal inquiry. The statements identified by the Majority do not present real inconsistencies. Instead, they involve slightly varying recollections about nuances in conversations that took place more than two years ago. Certain participants do not recall the use of particular words or facial expressions in the conversations in question; others do. The Majority's suggestion that a perjury charge could be supported in such circumstances is absurd.

Making an unwarranted allegation of perjury does more than damage the reputations of dedicated officials. The Supreme Court has warned that "[o]ne consideration of policy overshadowed all others during the years when perjury first emerged as a common-law offense: that the measures taken against the offense must not be so severe as to discourage witnesses from appearing or testifying."¹ And in the particular setting of inter-Branch relations, courts have recognized that aggressive recourse to prosecution "would complicate future relationships between the two branches and thus could disrupt the orderly functioning of government. At a minimum, it could eventuate that the Executive officials would become more sifted and careful and less forthcoming than they otherwise might be."² Loose allegations like those made by the

¹ *Borstson v. United States*, 409 U.S. 352, 359 (1973).

² *United States v. Poindexter*, 725 F. Supp. 13, 26 (D.D.C. 1989).

Majority, which subject innocent persons to suspicion, loss of reputation, and great expense, ultimately will damage Congressional fact finding efforts. We trust that the Justice Department will dispose of this referral in short order.

The Rules of Classified Information.

The Majority asserts that the Administration has manipulated classification rules to hide damaging material. This is a very peculiar allegation. Much of the material cited in the Majority report involves foreign government information, intelligence activities, or the foreign relations of the United States, all areas that may be deemed classified.⁷ And perhaps more fundamentally, it is the Majority that rushed to release its conclusions even before submitting its report to the Executive Branch for declassification. This tactic has allowed the Majority to make its most inflammatory charges in general and conclusory terms, while using the classified nature of the underlying material to shield its allegations from close scrutiny. It therefore is not the Administration that is using the classified label to hide its dirty laundry.

In fact, the Clinton Administration has taken significant steps to rationalize the classification system and to avoid the rampant over classification that sometimes was undertaken by its predecessors.⁸ In particular, as the Majority notes, the rules promulgated by the Administration preclude the classification of data simply to "prevent embarrassment to a person,

⁷ See Executive Order 12958 § 1.5(D), (G), (d) (Apr. 20, 1995).

⁸ See Executive Order No. 12958 (Aug. 2, 1995); Executive Order No. 12958.

organization, or agency."⁹ The Minority expects that declassification of the report in this case will proceed expeditiously and with that important principle in mind. For the present, however, the Majority's accusation that the Administration is hiding behind classification rules is baseless - and will remain untested until the Subcommittee's report is declassified by the appropriate agencies.

The Rules of Executive Privilege.

The Majority is incorrect in contending that the Executive Branch's assertion of executive privilege to limit the testimony of several senior officials of the National Security Council was somehow improper. Of course, the Minority agrees wholeheartedly that Congress has the right to seek information that is relevant to a legitimate legislative inquiry. At the same time, however - although the Majority seems to suggest otherwise - for at least some purposes the NSC is "an extension of the White House office" and serves as "the supporting staff to the President in the conduct of foreign policy."¹⁰ Matters considered by senior NSC officials and presented to the President for decision therefore at least presumptively may be shielded by executive privilege. As a consequence, the Majority is wrong in asserting that the reluctance of NSC officials to offer formal, sworn testimony is somehow unprecedented. In fact, the Majority appears to acknowledge that NSC officials have been summoned to offer formal testimony only with great infrequency, and then only in the context of inquiries into potentially criminal conduct. And the

⁹ Id. at § 1.8(2).

¹⁰ OLC Opinion 78-50, *Freedom of Information Act - National Security Council - Agency Status Under FOIA*, 2 Op. OLC 197, 1978 OLC LEXIS 50, at *1 n.2.

Majority is incorrect in contending that the criminal nature of those inquiries was irrelevant to the willingness of NSC personnel to testify.

The Supreme Court has noted the considerations that bear on the assertion of executive privilege. The Executive Branch's interest in resisting testimony is at its height where the inquiry touches on "military, diplomatic, or sensitive national security secrets," areas where "the courts have traditionally shown the utmost deference to Presidential responsibilities."¹⁷ The interest in disclosure, on the other hand, is at its height where criminal conduct is alleged because "[t]he right to the production of all evidence at a criminal trial [itself] has constitutional dimensions."¹⁸ That is particularly so because, as the Court has observed, one "cannot conclude that [presidential] advisers will be moved to temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution."¹⁹ In the context of the Select Subcommittee's inquiry, where very sensitive matters of foreign policy are involved and where the investigation is not directed at criminal misconduct, those considerations indicate that the Executive Branch's interest in limiting disclosure is well-founded.

This is not to say that formal testimony by NSC officials may never be required. But it is plain that those officials may be called only when there is a persuasive showing of compelling

¹⁷ *United States v. Nixon*, 418 U.S. 683, 706, 710 (1974).

¹⁸ *Id.* at 711.

¹⁹ *Id.* at 712.

need for the testimony.²⁰ There was no such showing here. The Administration's assertion of executive privilege had no material effect on the conduct of the Select Subcommittee's inquiry. Virtually all officials contacted by the Subcommittee either testified or provided information in less formal settings.²¹ All of these officials were forthcoming. While NSC personnel were not sworn, their accounts were in every case consistent with those of witnesses who testified under oath.²² The Majority thus is unable to identify any area in which the Subcommittee's inquiry was hindered by the Executive Branch's limited invocation of executive privilege.

The assertion of privilege by NSC officials therefore was nothing out of the ordinary. Indeed, it is worth noting that CIA personnel — who are praised by the Majority for their cooperation with the Subcommittee — on several occasions asserted the executive and deliberative process privileges to cut off the Subcommittee's lines of inquiry. We do not say this to criticize the Agency, which is understandably reluctant to disclose its internal deliberations on very sensitive matters. It is plain, however, that the Majority's complaints in this area turn entirely on whose ox is being gored.

²⁰ See *Nixon*, 418 U.S. at 713-714.

²¹ The only exception is Defense Secretary Perry, who would have had very little of relevance to say in any event.

²² In this regard, the Minority notes that Deputy Secretary of State Talbot and Undersecretary Tammoff voluntarily testified under oath, even though their prior arrangements with the Subcommittee called only for unsworn testimony.

Appendix A

KEY NAMES

Christopher, Warren	U.S. Secretary of State
Cengic, Hasan	Bosnian Deputy Minister of Defense; Known Arms Dealer
Delic, Hazim	Commander of the Bosnian Government Army
Denich, John	Director, Central Intelligence
Granic, Moe	Croatian Foreign Minister
Hind, Douglas	Former British Foreign Secretary
Izetbegovic, Alija	President of Bosnia Herzegovina
Jugce, Alan	Former French Foreign Minister; Current French Prime Minister
Karadzic, Radovan	Bosnian Serb leader
Khanmehi, Avniollah	Supreme Leader of Iran
Milosevic, Slobodan	Commander of Serbia
Mladic, Rado	Leader of the Muslim Community in Croatia
Ometkatic, Imnan Sveto	Former EC Mediator and Co-Chairman of the Peace Conference on the Former Yugoslavia
Owen, Lord David	U.S. Secretary of Defense
Perry, William	President of Iran
Ratsanjani, Ali Akbar Hashemi	Commander of UNPROFOR, 1994-1995
Rose, Sir Michael	Former Prime Minister of Bosnia Herzegovina
Slajdzic, Haris	Croatian Defense Minister
Susak, Gobjko	Senior Official in the Croatian Intelligence Ministry
Suzak, Djurdja	Croatian Intelligence Chief
Tudjman, Franjo	President of Croatia
Turkovic, Biserka	Bosnian Ambassador to Croatia
Vance, Cyrus	Former UN Envoy and Co-Chairman of the Peace Conference on the Former Yugoslavia
Velayati, Ali Akbar	Iranian Foreign Minister

Appendix B

ACRONYMS

BSA	Bosnian Serb Army
BTF	Balkan Task Force, CIA
■	Central Intelligence Agency
CIA	Chief of Mission
COM	Chief of Station
COS	Congressional Research Service
CRS	Defense Attache
DAIT	Director of Central Intelligence
DCI	Deputy Chief of Mission
DCM	Deputy Director of Central Intelligence
DDCI	Deputy Director of Intelligence, Central Intelligence Agency
DDO	Deputy Director of Operations, Central Intelligence Agency
DIA	Defense Intelligence Agency
DOD	U.S. Department of Defense
EAC	Emergency Action Committee
EU	European Union (formerly the European Community or EC)
FRY	Federal Republic of Yugoslavia (Serbia and Montenegro)
FY	Fiscal Year
HVO	Croatian Defense Army
ICO	Islamic Conference Organization
ICR	Intelligence Community Representative
IFOR	Implementation Force
IOB	Intelligence Oversight Board
JNA	Yugoslav People's Army
MID	Military Intelligence Daily
NATO	North Atlantic Treaty Organization
NSA	National Intelligence Daily
NSC	National Security Agency
OCSE	National Security Council
OGC	Organization for Security and Cooperation in Europe (formerly Conference for Security and Cooperation in Europe or CSCE)
PAO	Public Affairs Officer
RSO	Regional Security Officer
TDY	Temporary Duty Assignment
UN	United Nations
UNHCR	United Nations High Commission for Refugees
UNPROFOR	United Nations Protection Force
UNSC	United Nations Security Council
USDS	U.S. Department of State

Appendix C

DEPOSITIONS AND INTERVIEWS CONDUCTED BY SELECT COMMITTEE

Subject	Date	Deposition or Interview	Relevant Position
Anderson, Mark	9/11/96	Interview	Former U.N. Fire and Emergency Medical Services, Sarajevo
Andres, Janet	9/30/96	Deposition	Former Special Assistant to former DCM Woolsey
Baker, Terri Lee	8/19/96	Interview	Current Secretary to Ambassador Galbraith, Former Secretary to ICM Neitzke
Baron, Frederick	8/28/96	Interview	Former Coordinator of Inter-Agency Task Force on Serbian/Montenegrin Sanctions
Bartholomew, Reginald	9/30/96	Deposition	Former Special Envoy to Former Yugoslavia
Berger, Samuel	9/25/96	Deposition	Deputy Assistant to the President for National Security Affairs
Burkhart, Robert	8/14/96	Interview	Former Communications Program Officer, USDS, Pakistan
Butler, Larry	9/19/96	Deposition	Former DCM, Belgrade
Caudle, Robert	9/4/96	Interview	Assistant General Counsel, CIA
Clark, General Wesley	9/4/96	Deposition	Former J-5, Director of Strategic Plans and Policy on the Joint Staff
Confort, Peter	9/4/96	Interview	Legal Advisor to the Central Eurasian Division, CIA
DiCuncini, Dennis	10/2/96	Interview	Former Chairman, Senate Select Committee on Intelligence
Djoric, Duska	8/21/96	Interview	Protocol Assistant, Embassy Zagreb
Donlon, Thomas	9/12/96	Deposition	Assistant Secretary of State for Public Affairs and Chief of Staff
Finn, Robert	8/18/96	Interview	ICM, Zagreb

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Subject	Date	Deposition or Interview	Relevant Position
Foley, Thomas	9/13/96	Interview	Former Speaker of the US House of Representatives
Galbraith, Peter	8/19/96	Deposition	U.S. Ambassador to Croatia
Goldberg, Philip	8/23/96	Interview	Former Desk Officer for Bosnia at USDS, DC
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Harrington, Anthony	7/25/96	Interview	Chairman of President's Intelligence Oversight Board
Herrick, Colonel Richard	8/20/96	Deposition	Former DATT, Embassy Zagreb
Hill, Christopher	8/14/96	Interview	Former Deputy Director of Eastern European Affairs, Former Director of South Central European Affairs, the Balkans, USDS.
Hoh, Christopher	8/23/96	Interview	Former Croatia Desk Officer in South Central European Affairs at USDS
Holbrook, Richard	9/27/96	Deposition	Former Assistant Secretary of State for European Affairs
Holtzapfel, Richard	8/20/96	Deposition	Former Political Officer, Embassy Zagreb
Hovenac, Susan	8/14/96	Deposition	Former Public Affairs Officer, Embassy Zagreb
Hunt, Swance	8/13/96	Interview	U.S. Ambassador to Austria
Hunter, Robert	9/20/96	Deposition	U.S. Ambassador to NATO
Jackovich, Victor	8/20/96	Deposition	Former U.S. Ambassador to Bosnia
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Klemp, Stephen	8/5/96	Interview	Former Chief of Political Section, Embassy Zagreb
Lake, Anthony	9/26/96	Deposition	Assistant to the President for National Security Affairs
MacEachen, Douglas	9/6/96	Deposition	Former Deputy Director for Intelligence
Michel, Robert	9/12/96	Interview	Former Minority Leader, US House of Representatives

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Subject	Date	Deposition or Interview	Relevant Position
Mittnacht, Thomas	8/14/96	Deposition	Former Political/Economic Officer and Notetaker, Embassy Zagreb
Monjo, John	8/14/96	Interview	Former Ambassador to Islamabad, Pakistan
Neitzke, Ronald	8/7/96	Deposition	Former DCM, Embassy Zagreb
Pazdral, Roma	8/19/96	Interview	Administrative Officer, Embassy Zagreb
Perina, Randolph	8/26/96	Deposition	Former Charge to Belgrade
Pitzer, Shane	8/30/96	Interview	Former Detachment Commander, US Marine Guard, Embassy Zagreb
Ray, Susan	8/13/96	Interview	Former Secretary to the Ambassador, Vienna, Austria
Redman, Charles	8/27/96	Deposition	Former Special Envoy to Former Yugoslavia
Rizza, John	9/4/96	Interview	Senior Deputy General Counsel, CIA
Rout, William	8/18/96	Interview	RSO, Zagreb
Sadler, Colonel Richard	8/21/96	Deposition	DAIT, Embassy Zagreb
██████████	██████████	██████████	██████████
██████████	██████████	██████████	██████████
Sray, John	8/28/96	Deposition	Former Intelligence officer to UNPROFOR
Scottman, Charlotte	8/10/96	Deposition	Former Secretary to Ambassador Galbraith
Swigert, James	8/23/96	Interview	Former DCM, Embassy Belgrade
Talbot, Steve	9/5/96	Deposition	Deputy Secretary of State
Tangney, Mildred	8/14/96	Interview	Former Secretary to the Ambassador, Islamabad, Pakistan
Tarnoff, Peter	9/13/96	Deposition	Under Secretary of State for Political Affairs

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Subject	Date	Deposition or Interview	Relevant Position
██████████	██████████	██████████	██████████
Vershow, Alexander	8/8/96	Deposition	Former Deputy Assistant Secretary of State
Vershow, Alexander	9/24/96	Interview	Special Assistant to the President and Senior Director, Central and Eastern European Affairs, National Security Council
Walker, Jenoue	8/21/96	Interview	Former Sr. Directorate for Europe, NSC
Weston, Thomas	8/14/96	Interview	Former Deputy Assistant Secretary of State for European and Canadian Affairs
Wilcox, Philip	8/14/96	Interview	Coordinator for Counterterrorism, USDS/ Principal Deputy Assistant Secretary to the Bureau of Intelligence and Research
Wolf, John	8/14/96	Interview	Former U.S. Ambassador to Malaysia
Woolsey, James	9/13/96	Deposition	Former Director, Central Intelligence
Zanakis, Kathryn	9/30/96	Deposition	Former TDY Secretary to Ambassador Galbraith

Appendix D

SELECTED CONGRESSIONAL ACTIVITY RELATING TO THE UN ARMS EMBARGO

Bill No.	Bill Title	Relevant Action	Outcome
HR 5368	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993	<i>During consideration of this bill, the Senate Foreign Relations Committee approved an amendment offered by Senator Biden to transfer defense articles from DOD stocks to the Bosnian government, pursuant to the lifting of the arms embargo.</i>	10/6/92 Signed into Law (PL 102-391)
HR 2295	Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1994	<i>This legislation contained language that was enacted in the prior year's appropriations bill authorizing the President to transfer DOD stocks to Bosnia, pursuant to a lifting of the UN arms embargo.</i>	9/30/93 Signed into Law (PL 103-87)
HR 2333	State Department, USIA, and Related Agencies Authorization Act, Fiscal Years 1994 and 1995	<i>In the House, the Foreign Affairs committee added a provision offered by Rep. Hyde that stated that the "President may terminate the US arms embargo of the Government of Bosnia-Herzegovina upon receipt from that government a request for assistance in exercising its right of self-defense"</i>	4/30/94 Signed into Law (PL 103-236)
S 2042	An act to remove the United States arms embargo of the Government of Bosnia and Herzegovina	<i>This legislation stated that "neither the President nor any other member of the Executive Branch of the US Government shall interfere with the transfer of arms to the Government of Bosnia and Herzegovina." 5/12/94 Mitchell amendment to direct the President to seek a multilateral lift of the arms embargo passed 50-49 5/12/94 Dole-Lieberman amendment mandating the termination of the embargo passed 50-49</i>	Referred to House Committee

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Bill No.	Bill Title	Relevant Action	Outcome
HR 4301	A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes	<i>During House floor consideration, the House adopted an amendment that was termed the Bosnia and Herzegovina Self-Defense Act of 1993, offered by Reps. McCloskey, Gilman, Bonior and Hoyer. 6/9/94 House passes McCloskey/Gilman amendment to direct the President to terminate the arms embargo by a vote of 244-178 6/9/94 House rejects Hamilton amendment offering a possible lifting of the arms embargo among options to a negotiated settlement by a vote of 242-181.</i>	Merged with S 2182
HR 4426	FY 95 Foreign Operations Appropriations	<i>This legislation contained language that DOD weapons stocks would be released to Bosnia pursuant to a multilateral or unilateral lifting of the arms embargo.</i>	8/23/94 Signed into law (PL 103-306)
S 2182	An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense programs of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes	<i>During the Senate debate, an amendment to propose the termination of the arms embargo, if the Bosnian Serbs do not meet certain conditions, was passed, while an amendment to unilaterally lift the arms embargo failed by a tie vote. 7/1/94 Senate adopted a Nunn-Warner amendment to authorize US military assistance only if the arms embargo is lifted by the UN Security Council by a vote of 52-48 7/1/94 Senate rejected a Dole-Lieberman amendment mandating a unilateral lift of the embargo 50/50</i>	10/5/94 Signed into Law (PL 103-3370)

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Bill No.	Bill Title	Relevant Action	Outcome
H.R. 4650	A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes	<i>The conference committee on S 2182, adopted language requiring that no US funds be used to enforce the arms embargo after 11/15/94, the so-called "Nunn-Mitchell" provision.</i> 8/11/94 Senate considered Dole/ Lieberman amendment requiring a unilateral lifting of the embargo which passed 58-42 8/11/94 Nunn/Mitchell amendment passed 56-44, that required that no US funds may be used for international efforts to enforce the arms embargo.	103-335
H.R. 1561	A bill to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997, and for other purposes	<i>During House consideration of the bill, an amendment requiring the unilateral lift of the arms embargo was adopted.</i> 6/8/95 House passes amendment requiring the President to unilaterally lift the UN arms embargo by vote of 318-99.	4-12-96 Vetted by President 4-30-96 Veto Override Failed in House by vote: 234 - 188 (Vote 136)
S 21	An act to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina	7/18/95 Dole offered a substitute amendment to allow the President to postpone the implementation of the lifting of the embargo beyond the deadline in the bill, if he informs congress 7/26/95 Passed Senate by vote of 69-29 (vote 331)	8/11/95 Vetted by President.

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Appendix E

DATES OF ARTICLES APPEARING IN THE NATIONAL INTELLIGENCE DAILY REFERRING TO ACTUAL OR PROPOSED ARMS SHIPMENTS IN VIOLATION OF THE UNITED NATIONS ARMS EMBARGO

1994	January 22, 1994	1995	February 23, 1995
	February 7, 1994		May 5, 1995
	March 16, 1994		June 2, 1995
	April 4, 1994		June 10, 1995
	April 27, 1994		June 23, 1995
	April 30, 1994		July 7, 1995
	May 2, 1994		July 24, 1995
	May 5, 1994		July 31, 1995
	May 14, 1994		August 11, 1995
	May 19, 1994		September 1, 1995
	May 21, 1994		October 3, 1995
	June 11, 1994		November 17, 1995
	June 15, 1994		December 11, 1995
	July 19, 1994		December 28, 1995
	July 23, 1994		
	August 17, 1994		
	September 3, 1994		
	September 13, 1994		
	September 20, 1994		
	September 27, 1994		
	November 3, 1994		
	November 15, 1994		

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Appendix F
SELECTED LIST OF MAJOR PRESS ARTICLES REGARDING LEAKS
IN THE U.N. ARMS EMBARGO

Date	Source	Article
8-23-92	New York Times	Degree Varies as Arab Assist Bosnia's Muslims
9-10-92	Los Angeles Times	Iranian Effort to Send Bosnia Arms Reported
9-10-92	New York Times	Iran Said to Send Arms to Bosnians
9-10-92	Washington Post	Iran Supplies Arms to Croatia, U.S. Says
9-11-92	Washington Times	Croatia Seizes Arms on Iranian Plane on a Tip from U.S.
11-3-92	Christian Sci. Monitor	Islamic States Concern for Bosnia
12-1-92	Los Angeles Times	U.S. is Allowing Iran to Arm Bosnian Muslims
4-14-94	Washington Post	U.S. Looks Aways as Iran Arms Bosnia
4-15-94	New York Times	Iran Ships Explosives to Bosnian Muslims
5-13-94	Washington Post	Bosnian Army Official Confirms Receiving Arms Shipments from Iran
5-14-94	Reuters	Iran Ships Material For Arms to Bosnians Report
5-14-94	New York Times	Iran Said to Violate Embargo
5-15-94	Washington Post	Greece, Macedonia Said to Skirt Sanctions; U.N. Observers Report Banned Goods Flowing in to Yugoslavia
6-2-94	Washington Times	Iranians Move into Bosnia to Terrorize Serbs
6-24-94	Washington Times	Iranian Weapons Seen Via Croatia
7-2-94	Reuters	Arms are Reaching Bosnia Via Croatia, Paper Says
8-2-94	Washington Times	Iran Uses Russian Planes to Supply Bosnian Muslim, Croatian Troops
9-4-94	Washington Times	Bosnians Sought Help from Iran
11-5-94	New York Times	Arms Trafficking to Bosnia Goes on Despite Embargo
11-11-94	New York Times	Getting Serious on Bosnian Arms
4-15-95	New York Times	U.S. Looks Aways as Iran Arms Bosnia

Iran Reported
Trying to Send
Arms to Bosnia

WASHINGTON (AP) — A U.S. State Department spokesman said Tuesday that the United States has received reports that Iran is trying to send arms to Bosnia. The spokesman said the reports are based on information from a source who has provided reliable information in the past. He said the reports are based on information from a source who has provided reliable information in the past. He said the reports are based on information from a source who has provided reliable information in the past.



IRAN: Bosnia Arms Shipment

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The Washington Post

Iran Ships Explosives To Bosnian Muslims

Embargo-Busting Cargo Also Aids Croatia

Conflicting Directives In Senate

Iran Oppose Arms Embargo

WASHINGTON, May 13—The Senate today rejected a proposal to lift an arms embargo against Bosnia and Herzegovina, but it passed a measure that would allow the United States to sell weapons to the Bosnian Muslims, a move that would help them fight against the Serbs.

The Senate vote was 54-45. The House of Representatives has already passed a similar measure. The Senate's action is a significant step toward ending the arms embargo that has been in place since the start of the conflict in Bosnia in 1992.

The measure would allow the United States to sell weapons to the Bosnian Muslims, but it would also allow the United States to sell weapons to the Croats. This is a controversial move because the United States has been trying to keep the conflict from escalating into a full-scale war between the Serbs and the Croats.

The Senate's action is seen as a victory for the administration's policy of supporting the Bosnian Muslims. It is also seen as a victory for the administration's policy of supporting the Croats. The Senate's action is a significant step toward ending the arms embargo that has been in place since the start of the conflict in Bosnia in 1992.

Iranian Air Cargo Opens New Arms Route for Bosnia's Muslims

BOSNIA, From A1

measures to lobby in efforts to lift the U.N. embargo and the other to break it unilaterally.

Advocates of lifting the weapons embargo say Bosnia, as a country recognized by the United Nations, is entitled to self-protection under Article 51 of the U.N. Charter. Currently Serb forces occupy about 70 percent of the country while the Muslim-led government and Croats hold the remainder.

Croatia, of up to a score, however, argue that the supply of weapons to Bosnia would be too little too late for the organized Muslim forces and could result in temporary round of Serb attacks on civilian, unorganized units, "ethnic cleansing" and war crimes equal to the horrors already visited on the Bosnian people.

In addition, even supporters of Bosnia's Muslim leaders of the mostly Muslim Bosnian army, albeit better armed and equipped than the ragtag force organized about two years ago, could improve itself rapidly enough to counter the formidable arsenal of the Bosnian Serbs. Compared with the Muslims' handful of tanks, for example, the Serbs are believed to possess at least 200, and each time they run out it is replenished by their presence in neighboring Serbia from the former Yugoslav national army, once the fourth-largest standing army in Europe and a major weapons producer on its own right.

Muslim officers, however, say that even the small amount of weaponry entering Bosnia already has jeopardized their lives.

"There are not a problem for us anymore," commented one high-ranking Muslim officer, citing recent del-



ivered the northeastern towns of Travnik, Mostar and Gora, where Muslim forces claimed to have pushed Serb troops back. The officers bristled at the recent Muslim defeat in Gorazde, surrounded by a Serb tank assault.

Throughout the war, moreover, the Muslims have succeeded in producing ammunition and some weapons in places throughout central Bosnia, in Herzegovina, Travnik and Zvornik. In Sarajevo, much of the ammunition production takes place in basements of private houses, although at least one factory is known to operate, producing mortar shells.

According to Bosnian and Western sources, the Iranian air force plane arrived in Zagreb early May 4 carrying 40 containers of explosives, fueling equipment and other raw materials for the production of ammunition and different types of ammunition. The boxes were marked "Therapeutic Air" and "No Smoking." Croatia's Defense Ministry denied that the goods were weapons-related.

Croatian Interior Ministry personnel surrounded the plane, witnesses said, adding that it was similar to an Iranian aircraft that attempted to deliver weapons to Bosnia's Muslim fighters in September 1992. That

cargo plane reportedly loaded with 4,000 machine guns and 1 million rounds of ammunition, but U.S. officials convinced Croatian authorities and persuaded them to impound the arms.

The first plane's cargo was held in Zagreb because relations between Croatia and the Bosnian government were deteriorating rapidly. Tensions over the war had led to two days of fighting between Croats and Muslims erupted in the coastal Dalmatian town of Ploce.

Last week, no such problems occurred. The plane was unloaded quickly and the cargo taken in Croatian trucks to the Adriatic coast, where it was transferred to a Bosnian government convoy headed for central Bosnia.

The reasons for the change, according to participants in the talks, involve a strange overlap between U.S. and Iranian policy in the region.

Under an accord hammered out in Washington in March, Bosnia's Croat and Muslim factions agreed to stop their year-long war and form a federation with a joint government and, significantly, a joint military command. They also agreed to link their federations loosely to Croatia.

Bosnian military sources said these agreements, bolstered by another accord signed in Zagreb weeks later, set the tone for renewed cooperation on embargo busting.

"Sometimes the military moves faster than the politicians," said Brig. Gen. Fikret Mustafic, a Bosnian Muslim who heads the government's task force on ending the war.

Cooperation was strengthened further in late April, when Croatia

Prime Minister Milan Vukotic led a delegation to Tehran and signed an agreement with Iran to facilitate the delivery of humanitarian and technical assistance to the Bosnian people, according to a foreign diplomat familiar with those talks.

According to Bosnian sources, Bosnia's Muslims lost two-thirds of the May 4 shipment while Croats received one-third, although other sources disputed the cut. Bosnia's Croats were not given anything meaningful, but the agreement was that Croats would funnel some to them later.

In a bizarre twist, however, when the convoy of Bosnian government trucks carrying the raw materials reached Croat-held Tomislavgrad in northeastern Bosnia, ethnic Serb automobiles held it up, demanding their share of the goods, sources said. On Tuesday, Bosnian officials withdrew the U.S. Embassy in Vienna where Bosnian Croats and Muslims were negotiating the terms of the federation.

The talks wanted an American diplomat to sort out the problem, but when that proved impossible, they appeared to Croatian officials to be irretrievable, and the roadblock was lifted.

"This is the first weapons-related convoy from the highest level since the war began," said a Bosnian military source. "It is a groundbreaking. We're hoping for more."

Iranians move into Bosnia to terrorize Serbs

Guards aim to radicalize Muslims

By E. S. ...

U.S. officials have learned that Iranian Revolutionary Guards are moving into Bosnia to terrorize Serbs and radicalize Muslims, according to a report from a U.S. intelligence source. The source said the guards are being sent to Bosnia to help the Bosnian Muslims in their fight against the Serbs. The source also said that the guards are being sent to Bosnia to help the Bosnian Muslims in their fight against the Serbs. The source also said that the guards are being sent to Bosnia to help the Bosnian Muslims in their fight against the Serbs.

Iran boots out British diplomat

LONDON (Reuters) - Britain said yesterday that Iran had ordered one of its diplomats to leave Tehran on retaliation for the expulsion of an Iranian envoy accused of misrepresenting the views of British documents. A Foreign Office spokesman said the deputy head of mission in Tehran, Kenneth Connel, had been asked to leave. The spokesman said it was an "entirely unjustified Iranian reaction." He confirmed newspaper reports that Britain had asked Iran to withdraw its first secretary, Vahid Jafarizadeh, last week. "This was because members of the Iranian Embassy had been involved in attempting to distribute forged documents purporting to show that Britain's policy in Bosnia was directed against the Muslims," the spokesman said. The Foreign Office later re-

ceived copies of two documents it said were forged by the Iranian secretariat. The documents were a letter supposedly from Foreign Secretary Douglas Hogg to Iranian Secretary of State Ali Akbar Mohtashami Roshdi. The letter, an Foreign Office spokesman said, was a "gross forgery" and was "designed to help our policies to help the Serbs." Official sources said ministers communicate through memos instead of formal letters and that Mr. Hogg would never have used "Hogg" rather than "Douglas Hogg." An official said the words "most sincerely" were taken from a photocopy of Prime Minister John Major's writing. The other document was an attack on British policy by "a sympathizer... in the Foreign and Commonwealth Office."

IRAN

Iran is facing a wide ranging...
A...
Kenneth Katzman, a Middle East specialist with the Congressional Research Service, said the U.S. government acknowledged last year that some Iranian Revolutionary Guards were in Bosnia. But the dispatch of several hundred Guards would fit a pattern used by Iran in other parts of the world and coincides with fresh reports of Iranian weapons shipments to Bosnia through Croatia.

A shipment of about 40 tons of small arms and explosives arrived in Croatia on May 4 on an Iranian Air Force Boeing 747 transport, and the weapons were then sent by truck and the shipment, which was kept in UN arms embargo in Bosnia, was the first of what is reported to be several air shipments from Iran.

Mr. Katzman, author of a book on Iran's Revolutionary Guards, said that the Guards have been successful in organizing paramilitary groups in Lebanon and Sudan and that a lack of religious fervor is not an obstacle.

"They don't have to be that fervent," Mr. Katzman said of the recruits sought by the Guards. "The Guards are like a virus - they get into a country and replicate themselves, leaving a militia behind."

Mr. Katzman said the dispatch of the Guards appears to be a buildup of Iranian influence rather than their first appearance.

Guards' presence in a lot of countries, among Western governments that don't want to see an Islamic government implanted in Europe that would act as a "cutting edge" of their influence in the West.

While Western governments, including the United States, debate whether to lift the arms embargo on Iran, Mr. Katzman said, "The Senate passed contradictory resolutions last month on whether to lift the UN arms embargo, first voting to seek allied support for ending the ban, and then approving a measure that calls for unilateral lifting of the embargo by the United States."

The State Department, in its annual report on global terrorism, said Iran remains the most active state sponsor of terror. The Tehran government has been linked to terrorist attacks in Italy, Turkey and Pakistan, including assassination of dissident Iranian.

The Washington Times

WASHINGTON, D.C., FRIDAY, JUNE 24, 1994

Iranian weapons sent via Croatia Add to Muslims' gets U.S. 'vink'

By G. B. ...

WASHINGTON, June 23 (AP) — Iranian weapons sent via Croatia to Bosnia and Herzegovina are being used by Muslims to fight against Serbs, a U.S. State Department spokesman said today. The spokesman said the weapons were sent to Bosnia via Croatia in violation of a U.S. arms embargo against Iran. He said the weapons were sent to Bosnia via Croatia in violation of a U.S. arms embargo against Iran. He said the weapons were sent to Bosnia via Croatia in violation of a U.S. arms embargo against Iran.

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CROATIA

From page 11

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The Washington Times

WASHINGTON, D.C., TUESDAY, AUGUST 2, 1994

WASHINGTON TIMES 8/2/94 p. A14

Iran uses Russian planes to supply Bosnian Muslim, Croatian troops

30 shipments of arms delivered despite U.N. embargo

By Paul Beaver

Since May at least 30 shipments of Iranian-made weapons have been flown to Muslim Bosnian and Croatian troops on Russian cargo planes in violation of the U.N. arms embargo.

It is transports from the Air Force base at Moscow at the former top-secret Zhukovskiy Design Bureau airfield — have been landing at Rik airport in Croatia with cargoes of 40 tons each.

"We are being paid by the Iranian government. We don't think there can be any objection to our carrying munitions from one government to another."

U.N. sources say they are particularly worried about arms crossing the borders shared by Italy and Slovenia and Hungary and Croatia.

In those areas, some rival warlords trade their "loot" of small arms, mortars and portable surface-to-air missiles and later use the weapons to shoot at one another.

Despite the presence of joint NATO and Western European Union naval forces in the Adriatic Sea, illicit arms shipments are also making frequently into Split and other parts along the Dalmatian coast.

One Egyptian freighter detained earlier this year in the

was carrying a variety of equipment including armored personnel carriers for Russian government troops.

In some cases, light armaments are shipped onto small fishing boats, which then upland along the Croatian coast. From there they are moved by land, with Croatian warlords levying a protection fee of about 30 percent of the value.

Among the weapons illegally reported into the country for recent use in the Bosnian war.

Red Arrow 8s, the People's Liberation Army of China's latest wire-guided missiles, for Muslim-dominated Bosnian government forces.

RPG-27 anti-tank rockets made in Russia, for Croatian and Muslim troops.

Mi-9 and Mi-1736 combat helicopters made by Russia's Kaman Helicopters, for Croatia's air force and the Muslim air wing.

German-designed Armburst anti-tank rockets, imported from Singapore, for use in Croatian Army lines.

MIG-21s and MIG-21Us (two-seat trainer jets made in former East Germany, for Croatian crews near Zagreb.

As pressure in the U.S. arms embargo against the Bosnian government grows, Europe and the United States. Former Yugoslav

BUSTING THE U.N. SANCTIONS

Public Statement: April 1992 to April 1994

Country of origin	Exports	Imports	Balance
Former USSR	\$360	\$50	\$310
Poland	2	1	1
Yugoslavia	0	0	0
Italy	0	2	2
Austria	0	2	2
Germany	0	2	2
France	0	2	2
Japan	0	2	2
Spain	0	2	2
UK	0	2	2
Other	0	2	2
South Africa	0	2	2
China	10	25	15
Singapore	0	20	20
Iran	0	50	50
Saudi Arabia	0	5	5
North Korea	2	0	2
Total	\$478	\$165	\$313

trying to boost its production capacity.

Since early this year, the UTVA factory at Pančevo, near Belgrade, has managed despite maintenance of Orca strike aircraft and G-4 SuperFalco strike planes.

A new Yugoslav-made vehicle, which resembles the U.S. Air Force's Sky Owl, is being tested periodically along the Yugoslav-Bosnian border.

Zastava, a small-arms design plant in Western Serbia, has developed a new line of infantry weapons, including the AS-47 AKM2. It has also built a new triple 12.7mm weapon, an assault shotgun, a 30mm grenade launcher and a heavy machine gun.

This component and a tracked armored fishing vehicle chassis are in production at an old railway locomotive factory in an undisclosed spot around Belgrade.

Recent articles in Novi Glasnik, the Yugoslav armed forces magazine, say two or three locally produced rotary light frigates, several satellite-style craft and up to three submarines will be sold to the Yugoslav navy.

Also widely trumpeted in the local press is a heavy-gauge version of the SS-1 Scud missile.

But this is likely to be more propaganda, West analysts say, than the sign of the will

The SUNDAY Times

The Washington Centre

Bosnians sought help from Iran

By Ed Galt

Douglas's government has sought secretly armed Iran for arms and night-vision equipment, as well as guerrilla warfare specialists, to prepare for a major offensive against the town of Gorizia, according to Pentagon intelligence sources.

The Bosnian army has nearly 200,000 troops and about 100,000 guerrillas, through its extensive network of fighters and guerrillas.

The request, made in late August, asked the Iranians to supply enough weapons, including rifles, grenades, rocket-propelled grenades and night-vision equipment, to equip 1,000 Bosnian fighters.

for BOSNIA, page A6

BOSNIA

From page A1

The Washington Centre has reported that the Bosnian army is preparing to launch a major offensive against the town of Gorizia, a strategic Bosnian town. The report says that the Bosnian army has received a large amount of weapons and equipment from Iran, including night-vision equipment, rifles, grenades, and rocket-propelled grenades. The report also says that the Bosnian army has received a large amount of guerrilla warfare specialists from Iran. The report says that the Bosnian army is preparing to launch a major offensive against the town of Gorizia, a strategic Bosnian town. The report says that the Bosnian army has received a large amount of weapons and equipment from Iran, including night-vision equipment, rifles, grenades, and rocket-propelled grenades. The report also says that the Bosnian army has received a large amount of guerrilla warfare specialists from Iran.

Iran, an apparent source of the report, says that the Bosnian army has received a large amount of weapons and equipment from Iran, including night-vision equipment, rifles, grenades, and rocket-propelled grenades. The report also says that the Bosnian army has received a large amount of guerrilla warfare specialists from Iran. The report says that the Bosnian army is preparing to launch a major offensive against the town of Gorizia, a strategic Bosnian town. The report says that the Bosnian army has received a large amount of weapons and equipment from Iran, including night-vision equipment, rifles, grenades, and rocket-propelled grenades. The report also says that the Bosnian army has received a large amount of guerrilla warfare specialists from Iran.

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IRAN SAID TO SEND ARMS TO BOSNIANS

Pine Interdicted in Croatia Is Reported to Hold War Material and Men

By MICHAEL S. GORDON

WASHINGTON, Oct. 13 — In the first of a series of reports, the United States and other Western nations have accused Iran of sending arms to Bosnia. The reports, which are being reported in the New York Times, say that Iranian arms are being sent to Bosnia through the aid of the Islamic Republic of Iran. The reports also say that Iranian arms are being sent to Bosnia through the aid of the Islamic Republic of Iran.



Iranian soldiers in uniform are seen in a photograph taken in the Islamic Republic of Iran. The soldiers are standing in a line, possibly in a field or training area. Some are holding rifles or equipment.

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Appendix C FBI REPORTS OF INCREASING TIES BETWEEN THE ORGANIZATION OF THE ISLAMIC CONFERENCE AND BOSNIA

8 May 1991
Izabegovic concluded a visit to Iran where he strengthened economic ties between the two countries.

14 Mar. 1992
Izabegovic praised Iran for its recognition of Bosnia-Herzegovina's independence. Iran also recognized the independence of Croatia and Slovenia.

16 June 1992
Muhammad Cengic, Bosnia's deputy prime minister, called on Islamic nations to help save Bosnia. Speaking from Istanbul, Cengic appealed to members of the OIC to make more effective efforts to stop the war. The OIC was scheduled to meet in Istanbul the following day.

5-6 Aug. 1992
Silajdzic meets with Iranian officials during his tour of Islamic countries. He pleaded with the Islamic conference to put a stop to the Serbian aggression in Bosnia.

10 Aug. 1992
Silajdzic praised the recommendation that an Islamic force led by Iran intervene in the war in Bosnia. While visiting Pakistan, Silajdzic also requested that the OIC attempt to deliver weapons for aerial defense and protection against Serb forces.

11 Sept. 1992
Silajdzic denied today that Islamic countries, especially Iran, were sending arms to his country. He reported that Bosnia was having all military aid channeled through the Security Council. Silajdzic noted that Bosnia was accepting financial aid and had so far received \$13 million from Pakistan, an undisclosed amount from Saudi Arabia was to be delivered and arrangements were being made with Kuwait. Negotiations also being held about Iranian oil shipments.

5 Nov. 1992
Izabegovic granted an Iranian interview during the proclaimed "week in support of the oppressed people of Bosnia-Herzegovina" in Iran. Izabegovic thanked Iran for its support and hoped that it would continue.

14 Nov. 1992
Hojjat al-Eslam Mahmud Mohammadi Eraqi visited several Bosnian cities and implored Iranians to send aid. Several instances are cited of people demonstrating their Iranian heritage and devotion to Iran and its principles. Eraqi reports that although there are food and water shortages, the Bosnian Muslims "only demand weapons and military assistance from the Islamic countries."

28 Dec. 1992

Izetbegovic held an interview with a group of journalists from the Persian daily JOMHURIYE ESLAMI. The group traveled to Sarajevo. During the interview, Izetbegovic declared Iran to be Bosnia's "greatest friend in the world." OIC ministers are quoted as threatening to lift the embargo by 1/15/93 if the Serbs did not agree to a cease fire. (The meeting was held in Jeddah earlier in the month.)

3 May 1993

IRNA

In a meeting with Iran's ambassador to Greece, Qasem Mohob Ali, Izetbegovic thanked Iran for its support. The two met after signing the U.N. peace plan in the Asir Palace Hotel. Izetbegovic expressed his hope that at the end of hostilities, Iran and Bosnia could enter into prosperous economic relations. During an OIC meeting in Karachi earlier in the week, Iran pledged \$20 million in aid to the Bosnian Muslims.

28 Dec. 1993

Tehran Voice of the Islamic Republic of Iran

Izetbegovic conducted an interview with an Iranian journalist. He thanked Iran for its leadership role in supporting the Bosnian Muslims and noted that because of such support, the Bosnian Muslims were able to find the strength to fight the Serbs.

17 April 1994

Bosnian President Izetbegovic sent a communique to Iran's president regarding the siege of Gorazde. In the communique, Izetbegovic implored the Iranians to "make every effort to defend the inhabitants of Gorazde and to prevent their destruction."

23 April 1994

Tehran IRNA

During an aside to the Cans-Montana meetings in Bucharest, Velayati pledged Iran's full support to the Bosnian Muslims to Sijadzic. In turn, Sijadzic spoke pessimistically about the role of "international circles" and thanked Iran for its support.

29 April 1994

Tehran Voice of Islamic Republic of Iran
Deputy Prime Minister Edib Bulkev arrived in Tehran today. According to Tehran, Bulkev thanked Iran for its support calling it Bosnia's "best friend and supporter in today's sorrowful crisis." Bulkev asked for the lifting of the arms embargo and noted that Bosnia will continue to rely on the aid and assistance from Iran.

30 April 1994

Tehran IRIB Television

Habibi met today with Croatian prime minister Valentic and Bosnian deputy prime minister Bulkev. Valentic criticized recent Serb aggression and "conveyed his country's willingness to engage in trilateral cooperation in various fields between Iran, Bosnia, and Croatia.

Tehran Voice of the Islamic Republic of Iran

This account detailed Bulkev's visit in Iran and described the fact that despite the atrocities occurring in Bosnia, the country had few friends and among those, "there are not many who are ready to extend active support for the territorial integrity, independence, and survival of the oppressed Bosnian nation." "Iran reiterated its willingness to dispatch military assistance in order to prevent the Serbs from continuing their crimes of aggression." "The piece concludes with a pledge for continued relations based on ideological Islamic tenet.

1 May 1994

Beijing Xinhua News Agency

According to Xinhua, Bosnia, Croatia and Iran signed a trilateral agreement to cooperate in the resolution of the Bosnia crisis. In a communique dispatched after the agreement was signed in Tehran, Nikica Valentic said that the trilateral negotiations concerned "resolving the Bosnian crisis and humanitarian aid."

7 May 1994

Sarajevo Radio

"For the first time since the beginning of the aggression against our country, a delegation of the Islamic Republic of Iran visited Sarajevo." "Velayati's delegation was received by Izetbegovic. In a speech to reporters after the meeting, Izetbegovic said that the meeting would have occurred sooner had UNPROFOR permitted it and that the struggle for freedom would have been different and less successful without Iran's aid. Izetbegovic reported that a Bosnian delegation, including the defense minister, had recently visited Iran "and they made certain deals there."

8 May 1994

Tehran Voice of Islamic Republic of Iran

In an interview following his return from Sarajevo, Velayati said that "expansion of ties between Iran and Croatia will play a positive role to reduce the suffering of the Bosnian people" and he commended the federation agreement reached between Croatia and Bosnia.

23 May 1994

Borhan Rahimpur

Iran's Foreign Ministry special envoy called on Hafez Sijadzic. Iran's ambassador to Bosnia, Muhammad Asyash-Zarehi accompanied him. Rahimpur expressed Iran's willingness to continue providing humanitarian and political aid to the Bosnians. Rahimpur stressed that such aid was being provided out of friendship and not religion. Sijadzic said there is no need for concern as Bosnia was a sovereign nation and could choose with whom to deal on its own.

June 10, 1994

Ljubljana arrived in Tehran today and met with Velayati. The two discussed the current situation in Bosnia and bilateral relations. Ljubljana said his country was still encouraging the UN to allow Iranian and other Muslim troops into UNPROFOR.

June 11, 1994

Hashtem-Rafsanjani received Ljubljana today in Tehran. Hashtem-Rafsanjani praised the

Bosnian Muslims and Ljubljanic thanked the Republic of Iran for its humanitarian aid.

4 Aug. 1994

Tehran IRNA

Sljadic met with Velayati at the OIC meeting in Geneva asking for more Islamic country involvement in the Balkan crisis. The meeting was an aside to the OIC contact group meeting. The situation in Bosnia was discussed and coordination among the contact group members. Also in attendance was FM Ljubljankic and Taherian.

11 Aug. 1994

Sljadzic received Iranian ambassador today and discussed the OIC plans developed at the Geneva meeting. Issues of joint importance, including humanitarian _____ were also discussed.

25 Aug. 1994

A delegation of Bosnians arrived in Iran. The delegation included Ljubljankic, Dr. Mirko Pejmanovic, Dr. Enes Karic, Ibrahim Jusufiragic, and Mayor Tarik Kiposovic. Pejmanovic met with the Deputy foreign Minister emphasizing the need to include Iranian diplomacy in the talks with Russian and Greek diplomats who are responsible for forcing the Serbs to accept the contact Group plan. Karic met with Iranian Culture Minister Mirsalim and agreed to integration of each others countries cultural days into the calendar and curriculum.

28 Sept. 1994

Sarajevo Radio BH Network

Taherian was received by Ljubljankic today. They discussed economic development and the situation in BH, particularly in Sarajevo.

29 Sept. 1994

Tehran Voice of the Islamic Republic of Iran

Velayati met with Izetbegovic and the president of Azerbaijan today. Velayati reaffirmed Iran's willingness to place troops under the UN flag in BH.

3 Oct. 1994

Sarajevo Radio BH Network

Member of Presidency Stjepan Kljucic received Iranian Taherian, ambassador of Iran to BH. They discussed the role of UNPROFOR, the implementation of the federation on the ground, and the creation of conditions for the return of refugees and displaced people. Kljucic stated that BH believed it would be in the best interests of the country if Islamic and Latin American troops participated in UNPROFOR. Iran reiterated its willingness to commit troops to UNPROFOR, despite the possibility that British and French may pull out. Housing construction issues also were discussed and Iran stressed that it already procured buses and financial funding for the return of refugees.

30 Oct. 1994

Zagreb Radio Croatia Network

Croatian and BH Prime Ministers Milica Valentic and Haris Sljadic returned to Zagreb after a

six day visit to Malaysia, Pakistan, and Iran. Croatian PM characterized the trip as favorable because it strengthened bilateral relations between C and BH and also with the visited countries. Concrete results reached included the participation of Croatian and Bosnian companies in Malaysia. Pakistani businessmen held brief talks with the two and entrance into the market looked favorable. "One of the most important results of the trip was certainly our visit to Iran, where we held very comprehensive top-level talks." (Valentic) During this trip Croatia concluded a deal with Iran to build four ships worth \$110 million in exchange for the same in crude oil. An additional four ships were in agreement stage. Valentic stated that "This first deal -- I have to say this openly -- has been concluded for the sake of good political relations between Croatia and Iran. Future deals must have greater commercial value."

16 Nov. 1994

According to Tehran IRNA, Bosnian FM Ljubljankic cabled Velayati on 11/16/94 calling for the "removal of all hurdles for dispatch of peacekeeping forces from Muslim countries, especially from Iran, to BH." He also called for Muslim countries to present a strong presence and take actions to solve the Balkan crisis.

29 Nov. 1994

Tehran IRNA Television

Because of the attacks on Bihać, Izetbegovic cabled Hashemi-Rafsanjani requesting that Iran increase international efforts to put an end to the violent aggression of Serb forces in BH. Hashemi-Rafsanjani then cabled the heads of state of France and Germany asking them to take new steps to thwart the Serb aggression.

5 Dec. 1994

A meeting in Geneva of the OIC is scheduled. Bosnian President Izetbegovic is scheduled to attend. Bosnia's ambassador to Geneva, Mustafa Bijedic, said that he would be accompanied by FM Ljubljankic. PM Sljadzic also was to try to attend if he could leave Bosnia. The meeting was to be attended by the OIC contact group on Bosnia as well as ministers from Morocco. According to FBIS (12/1/94), Turkey and Iran had been appealing "over the last several days to the five nation Contact Group on Bosnia (US, Britain, France, Germany, and Russia) to take action to aid the Bihać enclave."

NOTE: After this meeting, the OIC declared the arms embargo against Bosnian Muslims illegal and immoral.

6 Dec. 1994

According to FBIS (12/6/94), Croatian FM Mate Granic also attended the OIC meeting. Bangladesh, Jordan, and Tunisia also were represented at the meeting. At the meeting the OIC called for a breaking of all economic ties with ramp Yugoslavia (Serbia-Montenegro) and rejected the European suggestions of easing sanctions against Belgrade.

NOTE: In the September 1994, the OIC met in Islamabad and called for the lifting of the arms embargo. Failing that, the OIC members said they "could provide the [Bosnian Muslims] with the necessary "means of self-defense."

7 Dec. 1994

According to a FBIS transcript of the Tehran Voice of the Islamic Republic of Iran: Foreign Affairs Minister Ali Akbar Velayati said "the situation in Bosnia and ways of preventing the Serb's aggression were studied." With regard to putting an end to Serb aggression, "We had positive discussions . . . and practical measures were taken, the effects of which will appear gradually." Velayati also commented that Iran proposed at the session that "Islamic countries should dispatch more peacekeeping forces to BH. These forces can replace those of the countries that have threatened to withdraw from Bosnia."

Velayati also held private talks with Izetbegovic in which "bilateral relations and ways of cooperation between the two countries were studied."

House Calendar No. 214

104TH CONGRESS
2D SESSION

H. RES. 416

[Report No. 104-551]

Establishing a select subcommittee of the Committee on International Relations to investigate the United States Role in Iranian arms transfers to Croatia and Bosnia.

IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1996

Mr. GUNAWA submitted the following resolution: which was referred to the Committee on Rules

MAY 2, 1996

Referred to the House Calendar and ordered to be printed

RESOLUTION

Establishing a select subcommittee of the Committee on International Relations to investigate the United States Role in Iranian arms transfers to Croatia and Bosnia.

- 1 *Resolved*, That (a) there is established a Select Subcommittee on the United States Role in Iranian Arms
- 2 Transfers to Croatia and Bosnia (hereinafter referred to
- 3 as the "select subcommittee") of the Committee on International
- 4 Relations. The select subcommittee is authorized

(613)

1 to sit and act during this Congress at such times and
 2 places within the United States, including any common-
 3 wealth or possession thereof, or in any other country.
 4 whether the House is in session or has adjourned.
 5 (b) The select subcommittee shall be composed of 8
 6 members of the Committee on International Relations ap-
 7 pointed by the chairman of the Committee on Inter-
 8 national Relations, 5 of whom shall be members of the
 9 majority party and 3 of whom shall be appointed upon
 10 the recommendation of the ranking minority party mem-
 11 ber of that committee. The chairman of the Committee
 12 on International Relations shall designate one of the ma-
 13 jority party members as chairman. Any vacancy occurring
 14 in the membership of the select subcommittee shall be
 15 filled in the same manner in which the original appoint-
 16 ment was made.
 17 (c) The select subcommittee is authorized and di-
 18 rected to conduct a full and complete investigation, and
 19 to make such findings and recommendations to the Com-
 20 mittee on International Relations as the select subcommi-
 21 tee deems appropriate relating to the following matters:
 22 (1) The policy of the United States Government
 23 with respect to the transfer of arms and other as-
 24 sistance from Iran or any other country to countries
 25 or entities within the territory of the former Federal

3
 1 Republic of Yugoslavia during any period that an
 2 international arms embargo of the former Yugo-
 3 slavia was in effect.
 4 (2) The nature and extent of the transfer of
 5 arms or other assistance from Iran or any other
 6 country to countries or entities within the territory
 7 of the former Federal Republic of Yugoslavia during
 8 the period that an international arms embargo of
 9 the former Yugoslavia was in effect.
 10 (3) Any actions taken by the United States
 11 Government to facilitate or to impede transfers de-
 12 scribed in paragraphs (1) and (2).
 13 (4) Any communications or representations
 14 made to the Congress of the United States or the
 15 American people with respect to the matters de-
 16 scribed in paragraph (1), (2), or (3), with respect to
 17 the international arms embargo of the former Yugo-
 18 slavia, or with respect to efforts to modify or termi-
 19 nate United States participation in that embargo.
 20 (5) Any implication of the matters described in
 21 paragraphs (1), (2), and (3) for the safety of United
 22 States Armed Forces deployed in and around
 23 Bosnia, for the prompt withdrawal of United States
 24 Armed Forces from Bosnia, for relations between

1 the United States and its allies, and for United
 2 States efforts to isolate Iran.

3 (6) Any actions taken to review, analyze, or in-
 4 vestigate any of the matters described in paragraph
 5 (1), (2), (3), (4), or (5), or to keep such matters
 6 from being revealed.

7 (7) All deliberations, discussions, or commu-
 8 nications within the United States Government re-
 9 lating to the matters described in paragraph (1),
 10 (2), (3), (4), (5), or (6), and all communications be-
 11 tween the United States Government (or any of its
 12 officers or employees) and other governments, orga-
 13 nizations, or individuals relating to such matters.

14 (d) The select subcommittee shall be deemed to be
 15 a subcommittee of a standing committee of the House of
 16 Representatives for all purposes of law and for all pur-
 17 poses of the Rules of the House, including clause 2(m)
 18 of rule XI, but not for purposes of clause 6(d) of rule X.
 19 The select subcommittee may sit while the House is read-
 20 ing a measure for amendment under the five-minute rule.
 21 (e)(1) The chairman of the select subcommittee, for
 22 purposes of its investigation, may, upon consultation with
 23 the ranking minority party member of the select sub-
 24 committee, authorize the taking of affidavits and deposi-
 25 tions pursuant to notice or subpoena, by a member of the

1 select subcommittee or of the staff of the Committee on
 2 International Relations designated by the chairman of the
 3 select subcommittee, or require the furnishing of informa-
 4 tion by interrogatory, under oath administered by a person
 5 otherwise authorized by law to administer oaths.

6 (2) The select subcommittee shall provide other com-
 7 mittees and Members of the House with access to informa-
 8 tion and proceedings, under procedures adopted by the se-
 9 lect subcommittee consistent with clause 7(c) of rule
 10 XLVIII of the Rules of the House of Representatives.
 11 However, the select subcommittee may direct that particu-
 12 lar matters or classes of matter shall not be made available
 13 to any person by its members, staff, or others, or may
 14 impose any other restriction. The select subcommittee
 15 shall, as appropriate, provide access to information and
 16 proceedings to the Speaker, the majority leader, the mi-
 17 nority leader, and their appropriately cleared and des-
 18 igned staff.

19 (3) Authorized subpoenas may be signed by the chair-
 20 man of the select subcommittee.

21 (f) The select subcommittee shall transmit a report
 22 to the Committee on International Relations not later than
 23 6 months after the date on which this resolution is agreed
 24 to. The report shall contain a detailed statement of the

- 1 findings of the select subcommittee, together with its recommendations.
- 2 on recommendations.
- 3 (g) The select subcommittee shall cease to exist 6
- 4 months after the date on which this resolution is agreed
- 5 to.

House Calendar No. 214

H. RES. 416

104TH CONGRESS
2ND SESSION

[Report No. 104-511]

RESOLUTION

Establishing a select subcommittee of the Committee on International Relations to investigate the activities of the Communist Party, United States Branch in London from January to March 1951, and to report thereon.

May 2, 1956

Referred to the House (Calendar and referred to be printed)

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extended to U.S. demands that they reduce the Iranian presence on their soil.

The Clinton administration's actions in relation to this matter are disturbing and raise several questions. Was the administration calling the American people, Congress, our allies and even most of the executive branch one thing while it was doing another? Did any of the administration's actions violate U.S. law? Was the U.S. government's role in these arms transfers simply passive or was it, as the April 17 Los Angeles Times article reports, more "hands on"? Which government officials knew about these arms transfers, and when? How extensive was the effort to keep Congress uninformed of the Iranian operations? Why did the Clinton administration allow Iran, a State Department "terrorist nation," to unilaterally violate the arms embargo after repeatedly ignoring U.S. congressional pleas and directives for the U.S. to do so? Did the administration's actions increase the risk to U.S. Armed Forces deployed in Bosnia or decrease the likelihood of a timely withdrawal of U.S. Armed Forces from Bosnia.

NEED FOR THE RESOLUTION

It is the view of the Committee on Rules that H. Res. 418 is necessary for several reasons. First, it will ensure that the Committee on International Relations has the resources to ascertain the answers to questions raised in response to the Clinton administration's actions with respect to covert arms shipments by Iran to Croatia and Bosnia. As Chairman Clinton stated in testimony before the Rules Committee, "The full International Relations Committee does not have the full legislative and oversight agenda. We need votes before its full legislative and oversight agenda. We need votes to help us do 98 percent of our funds in that. The full committee quite simply does not have the resources to undertake that kind of extensive review of looking into all of the documents that the executive branch may have and all of the events that occurred."

Second, although the Rules of the House grant investigative and subpoena powers to standing committees and subcommittees, H. Res. 418 is needed to allow the International Relations Committee to thoroughly investigate this matter utilizing a select subcommittee.

Specifically, the resolution is required to effectively exempt the International Relations Committee from the five subcommittee limitation on a temporary basis and solely for the purpose of establishing this select subcommittee. Clause (d) of rule X limits House committees to establishing no more than five subcommittees, except Appropriations, which is limited to 15; Government Reform and Oversight, limited to 7; and Transportation and Infrastructure, and Oversight, limited to 7. This select subcommittee shall be deemed to be a subcommittee of a standing committee for all purposes of law and for all purposes of the Rules of the House except for clause (d) of rule X.

Section on the select subcommittee established by H. Res. 418 is consistent with House rules. Clause (b)(1)(A) of rule X limits Members to serve on two full committees and four subcommittees of the House. This rule continues in clause (b)(2)(B) to state that

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for purposes of the committee and subcommittee assignment limit, "the term 'subcommittee' includes any panel, task force, or subcommittee, or any subunit of a standing committee that is established for any purpose for a period longer than six months in any Congress." Since H. Res. 418 specifically states that the select subcommittee shall cease to exist 6 months after the date on which the resolution is agreed to, service on the select subcommittee is entirely appropriate under House rules, including under the Member assignment limits.

Third, a resolution of this nature is necessary to limit the scope and time frame for the select subcommittee's investigation. The select subcommittee's scope and focus of its investigation is clearly set forth in subsection (c) in paragraphs (1) through (7) of the resolution. Subsection (f) of the resolution states that the select subcommittee shall transmit a report to the Committee on International Relations, including a detailed statement of findings and recommendations, not later than 6 months after the date on which this resolution is agreed to. Subsection (g) of the resolution states that the select subcommittee shall cease to exist 6 months after the date on which the resolution is agreed to.

Furthermore, H. Res. 418 is necessary to authorize the taking of depositions, pursuant to notice or subpoena, by a Member or staff designated by the chairman. The House has, on occasion, granted special authority to standing or select committees to allow a single Member or designated staff to take sworn depositions as part of a broader resolution authorizing specified investigations. Such investigative authorization resolutions have been necessary either because they created new select committees to carry out the investigations, or because they granted existing standing committees with special jurisdiction and procedures not available to them under the standing rules of the House. Some examples of investigation authorization resolutions that have included special deposition authority are the following:

President Nixon Impeachment Proceedings (83rd Congress, 1974, H. Res. 603)—This resolution gave the Judiciary Committee full authorization to conduct an impeachment inquiry into allegations against President Nixon. Among other things it permitted the committee to require by subpoena or otherwise the attendance and testimony of any person, including the taking of depositions by counsel to the committee.

Assassinations Investigation (85th Congress, 1977, H. Res. 322)—This resolution created the Select Committee on Assassinations, and provided it with various procedural authorities, including the authority to take testimony under oath anywhere in the United States and overseas, whether the House is in session or has adjourned. This language is similar to that which applies to standing committees under clause X(1)(A) of rule XI of the Rules of the House. The resolution also authorized the select subcommittee to sit and act outside the United States.

Konigsberg (96th Congress, 1979, H. Res. 252 & H. Res. 762)—The first resolution broadened the authority of the House Standards Committee to investigate whether family members or associates of these Members, officers or employees had accepted anything of value from the Government of

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6

known or representatives thereof. The resolution also gave joint subpoena authority to the chairman and ranking minority member of the committee but permitted appeal to the committee if one objected. It also gave special counsel the right to intervene in any judicial proceeding relating to the inquiry. The second resolution authorized committee employees to take depositions, but required that an objection by a witness to answer a question could only be ruled on by a member of the committee.

Alabama (97th Congress, 1981, H. Res. 67)—The resolution gave certain special authorities to the Standards Committee, though the investigation was confined to Members, officers and employees. Included in the Resolution was a provision permitting any single member of the committee to take depositions.

Iran-Contra (100th Congress, 1987, H. Res. 12)—The resolution authorized the creation of a select committee to investigate the covert arms transactions with Iran and any diversion of funds from the sales. Among other things, the resolution gave the chairman, in consultation with the ranking minority member, the authority to authorize any member or designated staff to take depositions or affidavits pursuant to notice or subpoena, which were to be deemed to have been taken in executive session, but available for use by members of the select committee in open session.

Judge Hastings Impeachment Proceedings (100th Congress, 1987, H. Res. 326)—This resolution authorized counsel to the Judiciary Committee or its Subcommittee on Criminal Justice to take affidavits and depositions pursuant to notice or subpoena.

Judge Nixon Impeachment Proceedings (100th Congress, 1988, H. Res. 682)—This resolution authorized the Judiciary Committee counsel to take depositions and affidavits pursuant to notice and subpoena.

October Surprise (102nd Congress, 1991, H. Res. 258)—This resolution established a special task force to investigate certain allegations regarding the holding of American hostages by Iran in 1980. Among other things the resolution authorized the chairman, in consultation with the ranking minority member, to authorize subpoenas and to authorize the taking of affidavits and depositions by any member or by designated staff, which were to be deemed to have been taken in Washington, D.C., in executive session.

White House Travel Office (104th Congress, 1996, H. Res. 369)—This resolution authorized the chairman of the Government Reform and Oversight Committee, for purposes of its investigation and study of the White House Travel Office Matter, to authorize the taking of affidavits and depositions by a member or designated staff, or receive the furnishing of information by interrogatory, which were to be deemed to have been taken in Washington, D.C., in executive session.

ANALYSIS OF THE RESOLUTION

H. Res. 418 establishes a select subcommittee of the Committee on International Relations to investigate the U.S. role in Iranian arms transfers to Croatia and Bosnia. The resolution authorizes the select subcommittee to sit and act during this Congress in the United States and overseas, whether the House is in session or has adjourned. This language is similar to that which applies to standing committees under clause X(1)(A) of rule XI of the Rules of the House. The resolution also authorizes the select subcommittee to sit and act outside the United States.

Unless otherwise provided in this resolution, the rules of the Committee on International Relations are applicable to the select subcommittee. The select subcommittee may adopt additional written rules to govern its procedures provided they are not inconsistent with the resolution, the rules of the Committee on International Relations, or the rules of the House.

The resolution states that the select subcommittee shall be composed of 8 members of the Committee on International Relations, 5 of whom shall be members of the majority party and 3 of whom shall be members of the minority party. The majority members shall be appointed by the chairman of the Committee on International Relations and the minority members shall be appointed by the chairman upon recommendation of the ranking minority party member of that committee. Unless formally appointed to serve on the select subcommittee, the Chairman and Ranking Minority Member of the Committee on International Relations may attend the meetings and participate in the activities of the select subcommittee, except for voting and being counted for a quorum. This is consistent with Rule 15 of the Rules of the Committee on International Relations.

The resolution sets forth the scope of the select subcommittee's investigation. The select subcommittee is authorized to investigate the policy of the U.S. government with respect to the transfer of arms from Iran to countries or entities within the territory of the former Federal Republic of Yugoslavia during any period that an international arms embargo was in effect; the nature and extent of those arms transfers; any actions by the U.S. Government to facilitate or impede such arms transfers; any communications to the Congress or the American people with respect to matters described above and with respect to the arms embargo or efforts to terminate or modify the U.S. participation in that embargo; any implication of the matters described above for the safety of the United States Armed Forces deployed in and around Bosnia, for relations between the U.S. and its allies, and for relations between the U.S. and Iran; any actions to review, analyze, investigate or keep from being revealed the above described matters; all deliberations, discussions, or communications within the U.S. government relating to the matters described above and all communications between the U.S. government and other governments, organizations, or individuals relating to those matters.

The resolution deems the select subcommittee a subcommittee of a standing committee of the House for all purposes of law and for all purposes of the Rules of the House, including clause 2(m) of rule

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XI but excluding clause 6(d) of rule X, Clause 2(m) of rule XI provides any committee or subcommittee, in the course of carrying out its functions and duties within its jurisdiction, the authority to sit and act whether the House is in session, or has recessed or adjourned. Furthermore, this rule provides the authority to issue subpoenas for attendance of certain witnesses or documents. A subpoena may be authorized by the subcommittee only when authorized by a majority of the members voting, a majority being present. The House rule further provides that the authority to issue subpoenas may be delegated to the chairman by the committee. Clause 6(d) of rule X limits the number of subcommittees a committee of the House shall have to no more than five, except the Committee on Appropriations, Government Reform and Oversight, and Transportation and Infrastructure.

The resolution authorizes the select subcommittee to sit while the House is reading a measure for amendment under the five-minute rule.

The resolution further authorizes the chairman of the select subcommittee, for purposes of its investigation, and upon consultation with the ranking minority member, to authorize the taking of affidavits and depositions pursuant to notice or subpoena by a member of the select subcommittee or of the staff of the Committee on International Relations designated by the chairman of the select subcommittee, or require the furnishing of information by interrogatory, under oath administered by a person otherwise authorized by law to administer oaths. The resolution states that the select subcommittee shall provide access to information and proceedings under procedures adopted by the select subcommittee consistent with those found in clause 7(c) of rule XLVIII (procedures of the Permanent Select Committee on Intelligence). The resolution further provides access to information and proceedings of the select subcommittee by the Speaker, the majority leader, the minority leader, and their appropriately cleared and designated staff. Such access is similar to that provided to the Speaker and the minority leader with respect to the Permanent Select Committee on Intelligence. H. Res. 416 only authorizes the taking of affidavits and depositions by a member of the select subcommittee or of the staff of the International Relations Committee designated by the chairman.

The resolution directs the select subcommittee to transmit a report to the Committee on International Relations not later than 6 months after the date on which this resolution is agreed to. The select subcommittee shall cease to exist 6 months after the date on which this resolution is agreed to.

The resolution does not authorize additional funds for the select subcommittee to carry out its investigation. Such funding must be provided for by a separate House resolution.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

Committee vote

Pursuant to clause 2(N)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

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to clause 2(b)(1) of rule X. The Committee has no oversight findings.

Oversight findings and recommendations of the Committee on Government Reform and Oversight

Clause 2(N)(2)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(1) of rule X, whenever such findings have been timely submitted. The Committee on Rules has received no such findings or recommendations from the Committee on Government Reform and Oversight.

Views of committee members

Clause 2(N)(2)(E) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional minority, or dissenting views and to include the views in its report. Although neither requirement applies to the Committee, the Committee always makes the maximum effort to provide its members with such an opportunity. The following views were submitted:

RULES COMMITTEE ROLLCALL NO. 306

Date: May 2, 1996.

Measure: H. Res. 416, Establishing a select subcommittee of the Committee on International Relations to investigate the United States Role in Iranian arms transfers to Croatia and Bosnia.

Motion By: Mr. Mookley.

Summary of Motion: Substitute amendment directing the International Relations Committee to undertake investigation using existing committee resources.

Results: Rejected, 4-7.

Vote By Members: Dreier—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Melnick—Nay; Greene—Nay; Mookley—Yes; Ballen—Yes; Frost—Yes; Hall—Yes; Solomon—Nay.

RULES COMMITTEE ROLLCALL NO. 307

Date: May 2, 1996.

Measure: H. Res. 416, Establishing a select subcommittee of the Committee on International Relations to investigate the United States Role in Iranian arms transfers to Croatia and Bosnia.

Motion By: Mr. Hall.

Summary of Motion: En bloc amendments to require "concurrent" instead of "consultation" with ranking minority member for authorizing the taking of staff depositions and add requirement to consult with minority on staffing decisions.

Results: Rejected 4-7.

Vote By Members: Dreier—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Melnick—Nay; Greene—Nay; Mookley—Yes; Ballen—Yes; Frost—Yes; Hall—Yes; Solomon—Nay.

RULES COMMITTEE ROLLCALL NO. 308

Date: May 2, 1996.

Measure: H. Res. 416, Establishing a select subcommittee of the Committee on International Relations to investigate the United States Role in Iranian arms transfers to Croatia and Bosnia.

Motion By: Mr. Dreier.

Summary of Motion: Report the resolution favorably to the House with the recommendation that it be adopted.

Results: Adopted 7-4.

Vote By Members: Dreier—Yes; Linder—Yes; Pryce—Yes; Diaz-Balart—Yes; Melnick—Yes; Greene—Yes; Mookley—Nay; Ballen—Nay; Frost—Nay; Hall—Nay; Solomon—Yes.

Congressional Budget Office estimates

Clause 2(N)(2)(C) of rule XI requires each Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. No cost estimate was received from the Director of the Congressional Budget Office.

Oversight findings

Clause 2(N)(2)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant

MINORITY VIEWS

This unprecedented legislative procedure proposed in H. Res. 416 was created for one purpose and one purpose only. It is a political fishing expedition designed to embarrass the administration by creating a perceived problem where one does not exist. It is an expensive political ploy designed to manufacture campaign fodder in an election year. It is a perfect example of politics at its worst.

The incident cited as the reason for this unnecessary and expensive special select subcommittee simply does not warrant the implementation of this highly unusual process. No laws were broken; there were no reporting requirements on the part of the Administration; no government officials participated in any prohibited activity; and no charges of wrongdoing have resulted from this particular incident. The resolution, however, seeks to focus attention on a situation that can be manipulated to cause the public to believe illegal or questionable activities took place. And, to add insult to injury, this resolution seeks to use additional Federal funds to the tune of \$1 million for this purely political endeavor.

This measure clearly seems to be in response to a call by the Republican leadership in the House calling upon their Committee Chairmen to dig deep for any dirt on the Administration. This contention is not simply a paranoid charge on the part of the minority, but rather the result of an April 23, 1996 memorandum requesting such information. The following is a copy of that memo:

To: All House Full and Subcommittee Chairmen.

From: Bob Walker and Jim Nussle.

Subject: Request for Information—Urgent.

Date: April 23, 1996.

On behalf of the House leadership, we have been asked to call all committees for information that you already have on three subjects listed below. We are compiling information for packaging and presentation to the Leadership for determining the agenda. You are a tremendous source for this project. The subjects are:

Waste, Fraud and Abuse in the Clinton Administration

Influence of Washington Labor Union Bosses/Corruption

Examples of Dishonesty or ethical lapses in the Clinton Administration

Please have your staff review pertinent GAO reports, Inspector General reports or committee investigative materials or newspaper articles for departments and agencies within your jurisdiction that expose anecdotes that amplify these areas.

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It should be through the existing mechanisms and committees of the House. It should be deliberated in a manner that is responsible and does not of greater concern over the matter. It should not be "investigated" as a political device, and the cost, both in dollars and in public trust, should not be too great to do otherwise. Equally important is the need to make sure that the committee would report in a timely manner. The safety of our U.S. troops in Bosnia and Croatia. We urge the majority to abandon their approach by utilizing the committee system that is already in place. To do otherwise can only raise concerns over the need for such action.

CONCLUSION
If the majority feels this incident must be examined, then they should do so through the existing mechanisms and committees of the House. It should be deliberated in a manner that is responsible and does not of greater concern over the matter. It should not be "investigated" as a political device, and the cost, both in dollars and in public trust, should not be too great to do otherwise. Equally important is the need to make sure that the committee would report in a timely manner. The safety of our U.S. troops in Bosnia and Croatia. We urge the majority to abandon their approach by utilizing the committee system that is already in place. To do otherwise can only raise concerns over the need for such action.

Requesting, as was the case in H. Res. 359, this amendment was presented to the committee with a quorum of members present. The committee reported the bill at a duly called meeting. It is requested that the House report the bill to the Senate as soon as possible.

Mr. Speaker, I am pleased to have the opportunity to discuss the House's response to the September 11 attacks. The House has taken a number of steps to ensure that our troops are safe and that our citizens are protected. We have passed legislation to strengthen our national security and to support our military. We have also taken steps to ensure that our government is transparent and accountable to the American people.

One of the most important steps we have taken is to ensure that our troops are safe. We have passed legislation to provide additional resources to our military and to ensure that they have the equipment and supplies they need to fight. We have also taken steps to ensure that our troops are properly trained and that they have the best leaders possible.

We have also taken steps to ensure that our citizens are protected. We have passed legislation to strengthen our national security and to ensure that our government is transparent and accountable to the American people. We have also taken steps to ensure that our economy is strong and that we have the resources we need to support our military.

Finally, we have taken steps to ensure that our government is transparent and accountable to the American people. We have passed legislation to ensure that our government is open to the scrutiny of the American people and that our leaders are held accountable for their actions. We have also taken steps to ensure that our government is efficient and that we are getting the most out of our tax dollars.

In conclusion, the House has taken a number of steps to ensure that our troops are safe and that our citizens are protected. We have passed legislation to strengthen our national security and to support our military. We have also taken steps to ensure that our government is transparent and accountable to the American people.

Thank you very much for the opportunity to speak today. I am proud to be a member of the House and to represent the people of my district. I will continue to work hard to ensure that our country is the best it can be and that our people are the best they can be.

Thank you, Mr. Speaker.

Tommy F. Hall
LARRY PROBY
JON MOAKLEY
JAMES C. BILBRO
JON MOAKLEY

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There is very little in H. Res. 418 that outlines the minority role in the special rules committee. Other than the committee membership rules, there are no specific minority rights written into the House rules. The Chairman of the Rules Committee will be the one to determine if the minority will be given any representation or control over any portion of the committee's business. In addition, the Rules Committee will be the one to determine if the minority will be given any representation or control over any portion of the committee's business. In addition, the Rules Committee will be the one to determine if the minority will be given any representation or control over any portion of the committee's business.

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HOUSE

September 26, 1986

For my colleague's sake in Congress and every American people, I am sure that we will have a very good record in the coming year. Thank you very much, Mr. Speaker. I am sure that we will have a very good record in the coming year. Thank you very much, Mr. Speaker.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. POLY) stated that the Speaker's special order for 3 minutes, and following members will be recognized for 3 minutes each.

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SEQUENCE OF SPECIAL ORDERS

Mr. HYDE, Mr. Speaker, I am sure that we will have a very good record in the coming year. Thank you very much, Mr. Speaker.

UNITED STATES SOLD IN RUSSIAN AND BOSNIA

The SPEAKER pro tempore (Mr. STANLEY) stated that the Speaker's special order for 3 minutes, and following members will be recognized for 3 minutes each.

This is one of those documents we should have to deal with in the coming months. I am sure that we will have a very good record in the coming year. Thank you very much, Mr. Speaker.

UPDATING DEPARTMENTAL ESTIMATE

The SPEAKER pro tempore (Mr. STANLEY) stated that the Speaker's special order for 3 minutes, and following members will be recognized for 3 minutes each.

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COMMITTEE ON NATIONAL SECURITY

U.S. House of Representatives

Washington, DC 20545-4015

1600 D. STREET, SOUTH CAPITAL CAMPUS, COLUMBIA

April 15, 1996

The Honorable William J. Perry
Secretary of Defense
Washington, D.C.

Dear Secretary Perry:

Recent reports allege that the Administration, beginning in 1984 and continuing through January 1996, underwrote the Iran-Iraq arms embargo against Bosnia by acquiescing in questions that such a policy would have served to prolong the conflict in the former Yugoslavia. These reports have increased political and military influence by Iran on United States continental, and have damaged the Administration's credibility with NATO allies.

The committee needs to ascertain whether and to what extent the Department of Defense had any knowledge of Iranian arms shipments to Bosnia during the period of the embargo. Accordingly, I request that you provide the committee the material requested below and answer to the questions that follow by May 15, 1996:

1. Please provide any imagery, photographic analysis, SIGINT, or other intelligence reports available to the Department of Defense indicating arms or munitions transfers from Iran to Bosnia during the period of the arms embargo.
2. Please provide any internal Department of Defense memorandum discussing the existence or possibility of Iranian arms or munitions transfers to Bosnia during the period of the arms embargo.
3. To what extent were senior Department of Defense officials aware of the alleged decision to equities in arms transfers from Iran?
4. Were any of the Department of Defense officials who briefed this committee and the Congress during the period of the arms embargo aware of the alleged decision to equities in arms transfers from Iran?

Very truly yours,
[Signature]

5. If Department or Defense officials were aware of any such decision to acquiesce in arms transfers from Iran, what efforts were made, if any, by the Department to notify this committee or Congress?

6. To your knowledge, did the U.S. provide arms or munitions to Bosnia directly or to a third party for transfer to Bosnia during the period of the arms embargo?

7. To your knowledge, did the U.S. facilitate the transport of arms and munitions, supplied by a third party, to Bosnia during the period of the arms embargo?

8. To your knowledge, did the U.S. in any way modify or alter embargo enforcement operations to facilitate the third party shipment of arms or munitions to Bosnia during the period of the arms embargo?

9. To what extent were members of the Joint Staff, ERCC staff or other military organizations involved in the decision-making process of the Administration's arms transfer policy or the alleged decision to acquiesce in arms transfers from Iran?

The point of contact on the committee's professional staff will be Peter Fry who can be reached at (202) 525-0531. Your assistance and prompt action on this important matter is appreciated.

With regards, I am,

Sincerely,

ROYD D. SPENCE
Chairman

- DRAFT -

UNITED STATES SENATE
COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, DC 20540-5012

April 16, 1996

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I confess deep concern about media reports that you decided in 1994 to approve Iran's becoming the principal supplier of armaments to the Bosnian military. The fact that Iran has been a supplier of weapons to the Bosnian Government has been public knowledge for some time.

What has not been public knowledge are the allegations that your Administration sanctioned - indeed, facilitated - the intervention of that terrorist nation into the Balkan conflict.

Mr. President, the Bosnians did indeed need weapons and training to resist Serbia's illegal aggression. I was among those who argued strenuously at the time that I was the responsibility of the United States to provide such assistance. I am therefore stunned by the credible reports that, at the very same time you were actively opposing legislation in Congress to lift the embargo and provide the Bosnian Government with arms and training, your Administration was subcontracting U.S. responsibility to the pseudo regime in Iran. As a direct result of that policy, Iran - a radical, fundamentalist, terrorist nation - now has a strategic foothold in Europe.

I am further dismayed that despite the numerous public hearings and briefings conducted by the Foreign Relations Committee on the Bosnian conflict, not even the name of your Administration Inform on the Committee of this recently-declared (and presumably covered) Iran policy.

In preparation for a comprehensive review of this matter by the Foreign Relations Committee, I respectfully request that you instruct members of your Administration to submit no later than April 26, 1996, any and all documents related to the role that your Administration may have played in proposing, organizing, sending, consulting, arranging, or spreading to the transfer of arms by any government or private organization into the former Yugoslavia during the period in which the United Nations arms embargo was in effect.

In addition, I will appreciate your instructing someone authorized to speak for you to respond to the following questions posed formally by the Foreign Relations Committee:

4/10/2002

HR75 025 0135 NOV81 RW22:01 96-25-10

April 21, 1994

President Bill Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

With each passing day, the situation in Bosnia-Berzegovina deteriorates further as the legitimate international recognized government of that country struggles to defend itself from Serbian 50rd aggressors assisted by their allies in Belgrade. In response to this tragic situation, the United States should immediately lift the arms embargo imposed on the Bosnian government and simply take the lead in urging others and the UN to do likewise. It is a course of action that should be pursued before any more Americans are asked to risk their lives in pursuit of a vague policy that does not distinguish between the aggressors and the victims.

Some 65,000 men, women, and children of Gorazde are now at the mercy of a vicious Serb army that has targeted a hospital and humanitarian relief organizations for intensive shelling. Killing scores of innocent civilians and reducing much of the city to rubble. In response to limited and largely ineffective NATO air strikes by US aircraft operating under Byzantine rules of engagement and tangled UN/NATO chains of command, Serb forces promptly gathered up UN personnel as hostages, blocked humanitarian relief convoys, and forcefully wrested control of heavy arms from UN peacekeepers in the so-called Sarajevo exclusion zone. In so doing, they have demonstrated a capability and determination against which the current UN/NATO military posture is simply inadequate.

In response to yet another in a series of failures to halt Serbian aggression, your Administration seems intent on adhering to an intellectually uneven and ineffectual policy. We relinquish both authority and responsibility to a UN that institutionally is incapable of taking decisive action. We repeatedly pledge our neutrality in the Bosnian conflict while reportedly rushing into Gorazde a small contingent of UN observers in early April to act as a trip wire to justify our ultimately unsuccessful bombing of Serb attackers. The Administration refuses to lift the arms embargo against the Bosnian government, but you publicly state on numerous occasions the desirability of so doing.

JESSE HELMS

4/10/94

JMS 005 215 M031 W22:01 94-12-90

Respectfully,

Jesse Helms

Mr. President, I will very much appreciate your cooperation and assistance in this matter.

1. Did the Government of Croatia request the views of the Government of the United States in regard to the transfer of Iranian arms through Croatian territory to Bosnia?
2. Did any official of the Government of the United States respond to such a request? If so, what was the response?
3. Did the effort to transfer Iranian arms to Bosnia through Croatian territory also facilitate the entry of Iranian government operatives into Bosnia?
4. Did any official of the Government of the United States at any time propose to any official of the Government of Croatia any initiative to facilitate the delivery of arms to Bosnia?
5. Did any official of the Government of the United States meet at any time with any official of the Government of Iran to discuss the transfer of arms to Bosnia? If so, when and where did such meetings take place, and what exactly was discussed?
6. Did the Government of the United States provide to any official of the Government of Iran any information - classified or otherwise - on air or ground interdiction efforts to enforce the United Nations arms embargo against Bosnia for the purpose of assisting in the evasion of such measures? If so, what information was provided?
7. Was any such information provided to the Government of Croatia? If so, what information was provided?
8. Was the transfer of Iranian weapons to Bosnia consistent with the United Nations arms embargo?
9. Did the United States have an obligation to inform the United Nations Security Council of any evidence that the arms embargo was being systematically violated?
10. Did the transfer of Iranian arms to Bosnia pose any danger or create any additional risk to the peacekeeping troops participating in the United Nations Protection Force in Bosnia?
11. What is the distinction between the Government of the United States acquiescing to the delivery of Iranian weapons to Bosnia versus the Government of the United States directly delivering weapons to Bosnia?

appear... indecisive and irresolute. Mr. President, the time is long overdue that the United States act in our national interest and not rely on the UN to determine our policy. Without further deliberation, you should lift the arms embargo on the Bosnian government and upon receipt from that government of a request for assistance, provide appropriate military assistance. You should also take the lead in urging other governments to do likewise.

Our national interest lies in returning stability to the region and securing the sovereignty of internationally recognized governments there. If this conflict is permitted to continue on its present course, it will inevitably destabilize neighboring countries and a dangerous broadening of the conflict could result. Our interests and those of the peoples of the region are served by leaving the battlefield and simultaneously encouraging peace negotiations. Lifting the embargo is one of the few steps that could prompt Serbia to seriously consider a negotiated settlement to end this conflict. Nothing gets the attention of an aggressor like a formidable foe. As long as Serbians believe they can win on the battlefield, they won't retire until their genocide is complete.

The House-Senate Conference on the State Department authorization bill this week endorsed a provision expressing the sense of the Congress that you should terminate the US arms embargo on Bosnia and urging you to provide appropriate military assistance. We are enclosing a copy of this language which you should soon be in a position to sign into law.

Mr. President, we urge you to take the action urged upon you by Congress and provide the embargoed Bosnian government with the means to defend itself, to fight its own war and to win its own peace. We should stop treating the Bosnian government like a ward of the UN that is incapable of standing up for itself. All the Bosnians want from the world is a chance to protect themselves, a basic right guaranteed by Article 51 of the UN Charter. Lifting the arms embargo -- an action that is clearly within your grasp -- will give them that chance and it is no longer morally defensible to deny it.

Mr. Davis
Bill Clinton
Army of the Air

Enclosure

Our Honorable Guest
Congress of the United States
Committee on International Relations
House of Representatives
Washington, DC 20515

May 2, 1996

The Honorable Warren Christopher
Secretary of State
United States Department of State
2001 'C' Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

I write with respect to my letter to you of April 25, 1996, regarding the Committee's request to take testimony from Ambassadors Galbraith and Rodman on U.S. policy toward Bosnia.

I was disappointed to learn that the State Department had made available Ambassadors Galbraith and Rodman to testify before the Senate Permanent Select Committee on Investigations this week despite my written request to you of April 25th and my staff's earlier oral request for such a hearing as soon as possible.

This is even more frustrating given the pledge of Under Secretary Tarnoff in recent testimony before the full committee to make available those witnesses to our committee.

My staff has been informed by your legislative affairs staff that Ambassadors Galbraith and Rodman would be made available to the committee but only under certain conditions: namely, my commitment that they would not be called back by the Select Subcommittee on Arms/Bosnia and other ad hoc matters. I am sure you can appreciate my reluctance to agree to any conditions given that the very subject subcommittee has not yet been constituted. I would not in any way want to compromise the subcommittee's ability to conduct with regard to this important foreign policy matter.

Accordingly, I once again request that Ambassadors Galbraith and Rodman be made available to testify in public sessions before the full committee at the earliest possible date. Should the committee not receive a satisfactory answer in this regard, I believe I have no choice but to consider convening the full committee next week to consider the witnesses of subpoena to compel the presence of Ambassadors Galbraith and Rodman before the full committee.

I also want to take this opportunity to convey my frustration with regard to another aspect of U.S. policy in Bosnia. As you know, the committee was not pleased to find in the report that the Administration's major policy change on the length of the deployment of U.S. forces in Bosnia, which concerned how long they stay, was not consistent with the country's Under Secretary Tarnoff and DOD official Tom Longworth.

Today the Washington Post reported that the President has decided to keep U.S. forces at full strength until after the elections planned for September. In addition, the article seems to refer to a possible follow-on peacekeeping operation in Bosnia that would take over from DPKO on December 20th. The White House has not ruled out U.S. participation in such an operation and there even have been planning sessions at the Pentagon and State Department to discuss the steps of such a force, sources tell.

This report directly contradicts the recent testimony of Under Secretary Tarnoff at our hearing last week. At that hearing, the Ranking Democratic Member of our Committee, Mr. Hamilton, asked Mr. Tarnoff "There is no consideration being given to any kind of follow-on military force after December 20th?" and was told by Mr. Tarnoff "That is correct."

In my April 26th letter to you I stated: "I can only assume that either my colleagues were misled last Tuesday, or the Director of Secretary Perry's Bosnia Task Force and the Under Secretary of State for Political Affairs are not fully informed about the planning with regard to the withdrawal of U.S. forces from Bosnia. In either event, the Administration has jeopardized its credibility with the Congress on a vital foreign policy matter." Today's Washington Post may merely underscore the accuracy of that statement.

I urge you to fully inform our committee just what Administration policy is with respect to the withdrawal of U.S. forces in Bosnia. In addition, I would like to reiterate my request that you ask your staff to review the transcript of our April 23rd hearing in order to clarify the Administration's testimony with regard to this matter.

Thank you for your attention to these matters.

With best wishes,


DONALD J. RUMSFELD
Chairman

DAQ/jwr/jbb

Congress of the United States
Committee on International Relations

House of Representatives
Washington, DC 20515
May 13, 1996

The Honorable Louis J. Fresh
Director
Federal Bureau of Investigation
9th Street and Pennsylvania Avenue, N.W.
Room 7176
Washington, D.C. 20535

RE Request for Detailed Agents

Dear Director Fresh:

Recently, I spoke with your Chief of Staff, Bob Buckham, about the issue of detailing FBI agents to assist the new House International Relations Select Subcommittee to investigate the United States' role in Iranian arms transfers to Croatia and Bosnia. As you know, I have been designated to chair and conduct the Select Subcommittee's inquiry. Critical to a fair and thorough examination of this serious matter will be the Bureau's assistance and skilled investigative support.

The investigation will be challenging and wide-ranging. It is very important that the Congress have the benefit of the Bureau's best and most experienced agents. The agents to be detailed should have considerable experience in both the criminal and foreign counter intelligence (FCI) fields.

In order that we thoroughly explore all of the facts surrounding the question of Iranian arms into Bosnia, I specifically request that three experienced senior agents be detailed to the Select Subcommittee: two with criminal investigative backgrounds, and one with specific FCI experience. Fluency in Serbo-Croatian by one or more of the agents would be extremely useful, as would an understanding or familiarity with Farsi.

It is my hope that these agents can be selected soon, and made available to the Select Subcommittee for the duration of its mandate in the 104th Congress.

Again, I thank you for your willingness to accommodate this request. As soon as your selection of these agents is made, my staff will be in touch with your office to discuss all of the necessary arrangements, including compensatory information, for detailing these agents to the Select Subcommittee.

With best wishes, I remain,

Very truly yours,

Henry

HENRY W. DE

Chairman

Select Subcommittee to Investigate
the U.S. Role in Iranian Arms Transfers
to Croatia and Bosnia

HHR:jsm

MEMORANDUM OF UNDERSTANDING

Regarding the Use of Executive Branch Law Enforcement

Investigators Detailed to the Select Subcommittee by DOJ and FBI

The Majority and Minority staff of the Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia have reached the following understanding regarding certain terms and procedures relating to the use of Executive Branch law enforcement investigators ("Select Subcommittee agents") detailed to the Select Subcommittee by the Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI").

- (1) Professional law enforcement investigators assigned by the Department of Justice and the FBI shall be a joint resource to both the Majority and Minority of the Task Force.
- (2) All assignments to the Select Subcommittee agents by the Chief Counsel, and/or the Minority Chief Counsel, shall, for administrative purposes be made either by or through the Chief Counsel. The Chief Counsel shall provide timely notice to the Minority Chief Counsel of all assignments to the investigators.

(3) Unless directed otherwise by the Chief Counsel, or the Minority Chief Counsel, the Select Subcommittee agents may conduct interviews personally or by telephone. Such interviews shall not be under oath unless directed by the Chief Counsel upon consultation with the Minority Chief Counsel.

(4) The Select Subcommittee agents shall provide the Chief Counsel, except in extraordinary circumstances, who shall in turn notify the Minority Chief Counsel, sufficient advance notice of any pending appointments for interviews, so that either Chief Counsel can determine whether to assign an attorney to join the interview.

Furthermore, with regard to all personal interviews, Select Subcommittee agents shall:


(a) inquire whether the witness is represented by counsel, and if so, inform the Chief Counsel and Minority Chief Counsel accordingly, prior to scheduling the interview;


(b) take notes during all interviews and keep the originals of the same as a record of the Select Subcommittee;

(c) reduce to writing, in memorandum form, the substance of all personal interviews within five working days, unless circumstances prevent that schedule and the Chief Counsel approves the delay;

(d) provide both the Chief Counsel and the Minority Chief Counsel a copy of the interview memorandum; and

(e) insure that any documents, records, exhibits, or other evidence obtained from the interviewed witness are turned over immediately to the Select Subcommittee security officer pursuant to the procedures relating to the same.


Richard J. Fockler
Chief Counsel


Richard Metzger
Minority Chief Counsel

7/24/96
Date

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNITED STATES HOUSE OF REPRESENTATIVES
SELECT SUBCOMMITTEE ON THE UNITED STATES ROLES IN
IRANIAN ARMS TRANSFERS TO CROATIA AND BOSNIA
AND
THE FEDERAL BUREAU OF INVESTIGATION

I. This document is a Memorandum of Understanding between the United States House of Representatives Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia ("Select Subcommittee") and the Federal Bureau of Investigation ("FBI") regarding certain terms and procedures relating to the detail assignment of Special Agents of the FBI to the select subcommittees.

II. Duties and Responsibilities of the Chief Counsel and Minority Chief Counsel to the Select Subcommittee

(A) Federal law enforcement investigators assigned to the Select Subcommittee by the FBI shall be a joint resource to both the Majority and Minority staffs of the Select Subcommittee.

(B) The Select Subcommittee shall reimburse the FBI for all costs associated with the detail assignment of FBI Special Agents to the Subcommittee, including official travel expenses.

(C) The Chief Counsel and/or the Minority Chief Counsel shall furnish written or oral responses, if requested by the FBI, regarding the performance appraisal of FBI Special Agents detailed to the Select Subcommittee.

(D) All assignments to the Select Subcommittee agents by the Chief Counsel and/or the Minority Chief Counsel shall, for administrative purposes, be made either by or through the Chief Counsel. The Chief Counsel shall provide timely notice to the Minority Chief Counsel of all assignments to the agents.

(E) Unless directed otherwise by the Chief Counsel, or the Minority Chief Counsel, the Select Subcommittee agents may conduct interviews personally or by telephone. Such interviews shall NOT be under each unit directed by the Chief Counsel, upon consultation with the Minority Chief Counsel.

03/05/98 TRF 13:04 (TR/RT NO 51811)

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III. Duties and Responsibilities of the Select Subcommittee Agents

(A) The Select Subcommittee agents shall assist the Subcommittee in all tasks related to the objective of the Subcommittee, as directed by the Chief Counsel.

(B) The Select Subcommittee agents will remain subject to the personnel rules, regulations, laws and policies applicable to FBI employees and will adhere to Subcommittee rules and regulations which are applicable to the performance of their assigned duties at the Subcommittee, so long as those rules do not conflict with FBI rules and regulations.

(C) The Select Subcommittee agents shall provide the Chief Counsel, except in extraordinary circumstances, who shall in turn notify the Minority Chief Counsel, sufficient advance notice of any pending appointments for interviews, so that either Chief Counsel can determine whether to assign an attorney to join the interview.

(D) With regard to all witness interviews, Select Subcommittee agents:

(1) shall inquire whether the witness is represented by counsel, and if so, inform the Chief Counsel and Minority Chief Counsel accordingly, prior to scheduling the interview;

(2) shall identify themselves as staff investigators of the Select Subcommittee, and not as federal law enforcement agents;

(3) shall not possess a firearm nor display FBI credentials or badge during the conduct of any personal interviews;

(4) shall take notes during all interviews and keep the originals of the same as a record of the Select Subcommittee;

(5) shall reduce to writing, in memorandum form, the substance of all witness interviews within five working days, unless circumstances prevent that schedule and the Chief Counsel approves the delay;

(6) shall provide both the Chief Counsel and the Minority Chief Counsel a copy of the interview memorandum;

03/05/98 TRF 13:04 (TR/RT NO 51811)

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(7) shall insure that any documents, records, exhibits, or other evidence obtained from the interviewed witness are turned over immediately to the Select Subcommittee security officer pursuant to the procedures relating to the same.

(E) The Select Subcommittee agents shall not exercise any law enforcement authority granted them by law while executing the duties and responsibilities for which they have been detailed to the Select Subcommittee.

(F) The Select Subcommittee agents shall not provide any oral or written account of information obtained as a result of the agents' assignment to the Select Subcommittee either to the FBI or to the personnel of any other Executive Branch agency without the express approval of the Chief Counsel.

(G) This agreement may be terminated by either party upon written notice to the other party.

Richard M. Shafer
RICHARD M. SHAFFRO
Chief Counsel

August 9, 1996
DATE

Richard Weitzer
RICHARD WEITZER
Minority Chief Counsel

August 14, 1996
DATE

Howard M. Shafer
HOWARD M. SHAFFRO
General Counsel, FBI

August 8, 1996
DATE

THE WHITE HOUSE
WASHINGTON
May 15, 1996

Dear Mr. Chairman:

I am writing in response to your letter regarding arms supplies to Bosnia in 1994. I have asked the relevant agencies to address the specific questions that you raised in your letter and to get back to you to ensure that the Committee obtains the information it needs on this matter. I would like to take this opportunity, however, to review the context of events in Bosnia at that time and the policy this Administration has pursued in order to end the conflict there.

From the day we took office, this Administration opposed the United Nations arms embargo against Bosnia because it gave the Serbian aggressors an unfair advantage over their Bosnian victims. At the same time, we opposed a unilateral lifting of the embargo because of the damage it would have done to relations with our NATO allies and the potentially disastrous, short-term effects it could have had on the ground in Bosnia. Unilateral lift would have put us in direct violation of a binding UN Security Council resolution. It would have triggered a major escalation in the war and caused the immediate withdrawal of UNPROFOR, presenting us with the tough choice of deploying ground troops to Bosnia to help our Allies extract their troops in a hostile environment or doing nothing and precipitating the biggest crisis in NATO since its founding.

In the spring of 1994, we faced another difficult decision when we were approached by Croatia on the question of allowing third-country weapons -- from Iran and other sources -- to pass through Croatia to Bosnian Government forces. If we had objected to potential arms shipments and the Croatians had complied, the Muslim-Croat Federation might have been destroyed in its infancy, making a bad situation for the Bosnians even worse. Under the circumstances, we chose to uphold our own obligation under the UN Security Council Resolution 713 not to provide arms to Bosnia, thus avoiding the harmful consequences that would have resulted from unilateral lift. But we chose not to take a position with respect to Croatia's permitting arms shipments to Bosnia across its territory. I believe that my Administration made the correct decision at the time, and I believe subsequent events have borne that out.

It is important to remember that the Iranian presence in Bosnia predated this decision. In fact, Iranian efforts to gain influence in Bosnia date back to the 1960s, and they gained momentum in 1991-92, in the early stages of the war, when the international community proved unable to confront Serb aggression. During this period, despite the UN arms embargo, Iran established itself as Bosnia's principal arms supplier and dispatched hundreds of personnel to assist in training Bosnian Government forces. Iranian military aid was part of a multi-pronged campaign of support that also included intelligence cooperation along with economic and humanitarian assistance. We have no evidence that the Iranian presence increased significantly after April 1994.

By contrast, the policy we pursued helped set the stage for changes in the military balance in Bosnia that led to the successful negotiation of the Dayton Accords. We insisted that those accords contain strict provisions on the withdrawal of foreign forces. Moreover, we made clear to the Bosnians that our readiness to lead an international effort to train and equip Federation forces was contingent on their ending all military and operational intelligence cooperation with Iran. As a result, the Iranian presence has been reduced to its lowest level since the start of the war, and we are working with the Bosnian government to reduce Iranian influence even further.

Our decision in April 1994 not to object to third-party arms shipments to Bosnia through Croatia was extremely sensitive. If it had become public, it could have led to serious tensions between us and our allies and further aggravated an already difficult situation in Bosnia. We did not discuss with Iran the issue of arms supplies for Bosnia, and we did not ourselves provide or transport arms to Bosnia. No U.S. covert action was undertaken.

In October 1994, Congress in effect codified this policy when it passed legislation that cut off funds for the purpose of U.S. enforcement of the embargo, while declining to lift the embargo against Bosnia unilaterally. Throughout this period, members of Congress were aware -- through intelligence shared with the Congress and press reports -- that arms shipments were entering Bosnia from third countries and that Iran was playing a role there. Consistent with our approach during the spring, the legislation did not make an exception for arms coming from any country, including Iran, nor was such an exception proposed during the congressional debate.

I welcome this opportunity to present the policy my Administration has pursued to help bring peace to Bosnia. Let me assure you that my Administration will cooperate fully with the Committee and with other Congressional bodies in their examination of this matter.

Sincerely,

Rim Winston

The Honorable Jesse Helms
United States Senate
Washington, D.C. 20510

Office of the Secretary
 Congressional Office
 Room 306
 Capitol Hill
 Washington, D.C. 20540
 Telephone: 202-225-3111
 Fax: 202-225-3112

Our Special Joint Congress
Congress of the United States
Committee on International Relations
 House of Representatives
 Washington, DC 20515
 May 21, 1996

OFFICE OF THE SECRETARY
 CONGRESSIONAL OFFICE
 ROOM 306
 CAPITOL HILL
 WASHINGTON, D.C. 20540
 TELEPHONE: 202-225-3111
 FAX: 202-225-3112

The Honorable Tony Lake
 Assistant to the President for
 The White House
 Washington, D.C. 20500

Dear Mr. Lake:


As you know, we have reached agreement with the Department of State that Ambassador Charles Redman and Peter Galbraith will testify before the Committee on International Relations, House of Representatives, on Wednesday, May 29th. Among other things, this agreement provides the necessity of serving the subpoenas that were authorized by our Committee on May 8th for the testimony of these two individuals.

In order for our Committee to prepare to receive the testimony of Ambassadors Redman and Galbraith, we need access to all relevant Executive Branch documents. I realize that there is not sufficient time before the May 29th hearing for the Executive Branch to process a new document request regarding the Iran/Bosnia matter. Accordingly, I ask only that you make available to this Committee all documents within the custody of the White House that have been made available to other congressional committees with respect to this matter.

I would appreciate your delivering all such documents to the Committee no later than Friday, May 24th, so that we will have adequate time to review them.

Please have your staff contact my Chief Counsel, Stephen Rademaker, at 225-7376 if you have any questions about this request.

With best wishes,

Sincerely,

 BENJAMIN A. GIDMAN
 Chairman

Office of the Secretary
 Congressional Office
 Room 306
 Capitol Hill
 Washington, D.C. 20540
 Telephone: 202-225-3111
 Fax: 202-225-3112

Office of the Secretary
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Foreign Arms Transfers to Croatia and Bosnia
 WASHINGTON, D.C. 20515

July 1, 1996

OFFICE OF THE SECRETARY
 CONGRESSIONAL OFFICE
 ROOM 306
 CAPITOL HILL
 WASHINGTON, D.C. 20540
 TELEPHONE: 202-225-3111
 FAX: 202-225-3112

The Honorable Warren M. Christopher
 Secretary of State
 United States Department of State
 2201 "C" Street, N.W.
 Washington, D.C. 20520

Dear Mr. Secretary:

As you are aware, the House of Representatives chartered a "Select Subcommittee to Investigate the United States' Role in Iranian Arms Transfers to Croatia and Bosnia." H.R. 416 (May 8, 1996). During the course of the Subcommittee's preliminary inquiries, it has been brought to our attention that the U.S. Ambassador to Croatia, Peter Galbraith, through various "administrative" measures, has recently brought extremely important official government activities to a virtual halt.

Upon the Ambassador's return to Croatia, following his testimony before Congress, the Ambassador sought to impose—and did impose—a number of insurmountable conditions on specific conduct of certain personnel assigned to the United States Embassy in Zagreb. It is our understanding that the Ambassador's actions have worked to reduce morale, and have also disrupted important professional relationships between officials working at the mission.

We are aware of the important role each member of an Embassy staff plays in the achievement of American foreign policy. Furthermore, we are cognizant of the important national security information that has been developed over the past several years that impacts upon the United States' vital interests in that particular region of the globe. Such information has, in fact, saved American lives. Therefore, it is highly disturbing to learn that our ambassador has apparently allowed his personal prejudices to interfere with our national security concerns, not the least of which is the need to protect the lives of the tens of thousands of U.S. troops currently deployed in the highly volatile environment of the former Yugoslavia.

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The Honorable Warren M. Christopher
July 3, 1996
Page 2

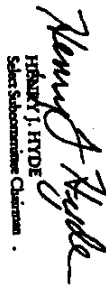
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We would welcome your inquiry into this matter and your providing our Committee with a report on the State Department's actions to rectify this unfortunate situation. We ask that the appropriate State Department Bureau brief senior staff of our Committee on this matter at your earliest opportunity.

Thank you for your prompt attention to this matter.

Very truly yours,


BENJAMIN A. GILMAN
Chairman


HENRY J. HYDE
Select Subcommittee Chairman

cc: The Honorable William J. Perry
Secretary of Defense

The Honorable John M. Deutch
Director of Central Intelligence

The Honorable Lerry Conbers
Chairman
House Permanent Select Committee on Intelligence

The Honorable Les H. Hamilton
Ranking Democratic Member
Select Subcommittee

BAG:HTH/ghm

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NO POSTAGE
NECESSARY
IF MAILED
IN THE UNITED STATES

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia
WASHINGTON, DC 20515

July 26, 1996

Mr. John M. Quinn
Counsel to the President
West Wing
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Quinn:

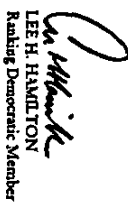
We are writing to request that you provide any of the documents that satisfy the Subcommittee's requests found in the attached letters, and any other information relating to the transfer of arms from Iran to Croatia and Bosnia which are in the possession of your office, or under the control of the White House.

This information will facilitate the Subcommittee's investigation of the issues relating to the government's decision regarding the Iranian arms transfer. Due to the limited time granted to the Subcommittee by its Congressional charter, we ask that these documents be provided to us by close of business August 2, 1996.

Should you have any questions regarding this request, please do not hesitate to contact me or my staff at (202) 225-2264. Thank you for your prompt attention to this matter.

Sincerely,


HENRY J. HYDE
Chairman


LEE H. HAMILTON
Ranking Democratic Member

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CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS

Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, D.C. 20515

July 26, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

We are writing to request an interview with the Honorable Madeline K. Albright, United States Ambassador to the United Nations, relative to the issues, facts and events under investigation by this Select Subcommittee. We are requesting that our staff counsel be permitted to interview Ambassador Albright between August 7 and August 15, and would appreciate learning when, during that time frame, the Ambassador will be available.

Should you have any questions regarding this request, please do not hesitate to contact us or our staff at (202) 225-2264. Thank you for your assistance and prompt attention to this matter.

Sincerely,


HENRY J. HYDE
Chairman


LEE H. HAMILTON
Ranking Democratic Member

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CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS

Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

July 26, 1996

The Honorable William J. Perry
Secretary of Defense
U.S. Department of Defense
The Pentagon
Washington, D.C. 20301


Dear Mr. Secretary:


We are writing to make an initial request for copies of all Department of Defense documents, records and/or briefing papers relating to the transfer of arms from Iran, or any other country, to Croatia and Bosnia during the period of time the UN Security Council Resolution prohibiting such activity was in effect. In particular, please provide copies of all DOD cables to, and/or from, the American Embassy in Zagreb, Croatia, relating to this issue. In addition, we request information on DOD activities undertaken to facilitate the provision of arms through Croatia, or through any other country, to Bosnia and any memoranda of conversations and/or meetings between you and any other agency official relating to this matter, or issues surrounding this matter.

Due to the limited time granted to the Subcommittee by its Congressional charter, we ask that these documents be provided to us by August 2, 1996.

Should you have any questions regarding this request, please do not hesitate to contact us or our staff at (202) 225-2264. Thank you for your prompt attention to this matter.

Sincerely,


HENRY J. HYDE
Chairman


LEE H. HAMILTON
Ranking Democratic Member

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Foreign Arms Transfer to Communist Regimes
WASHINGTON, DC 20515

July 28, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
2201 "C" Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

In reviewing documents made available by the Department of State to this Subcommittee, we have determined the following three documents will be of critical importance for the preparation of the Subcommittee's report:

- "Zagreb 1683," dated April 27, 1994, classified "Secret;"
- "Zagreb 1721," dated April 29, 1994, classified "Confidential;" and
- Memorandum for the File by Ambassador Peter Galbraith and witnessed by Ronald Neitzke, dated May 6, 1994, classified "Secret."

The matters discussed therein - the transmittal and implementation of the "green light" policy - are not at this point diplomatically sensitive and have been the subject of repeated and extensive unclassified testimony by Deputy Secretary Stroble Talbot, Undersecretary Peter Tarnoff, and Ambassadors Peter Galbraith and Charles Redman, among others. The documents are essential, however, in contemporaneously documenting the events to which they have testified. Accordingly, we ask that you declassify the documents for us to be able to cite and include as exhibits to our report.

Due to the extremely tight schedule on which the Subcommittee is operating, we ask that you notify us of the declassification no later than August 2, 1996.

We thank you for your cooperation.
Sincerely,

Henry Hyde
HENRY J. HYDE
Chairman
Select Subcommittee on
Iranian Arms Transfers

Ben Gilman
BENJAMIN A. GILMAN
Chairman
International Relations
Committee

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democratic Member
Select Subcommittee on
Iranian Arms Transfers

COMMITTEE ON INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
Solely Subordinate on the United States Role in
Foreign Arms Transfer to Croatia and Bosnia
WASHINGTON, D.C. 20515

HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Solely Subordinate on the United States Role in
Foreign Arms Transfer to Croatia and Bosnia
WASHINGTON, D.C. 20515

July 26, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20530

Dear Mr. Secretary:

In order to facilitate the Select Subcommittee's investigation of the Administration's "no intervention" policy regarding Croatian arms deliveries into Bosnia through Croatia, we would request that the Department of State make the following original items, documents, and records, from the U.S. Embassy in Zagreb available to the Select Subcommittee staff no later than close of business August 2, 1996:

- the accounting of recollections, impressions, and reflections prepared by Ambassador Peter Galbraith regarding various issues or events that arose in his capacity as U.S. Ambassador to Croatia. (Ambassador Galbraith desired this accounting to his secretary for transcription, which she then typed on the office computer system. It is believed to be contained and maintained on a computer disk at the Embassy. Staff counsel has been advised that Ambassador Galbraith began creating this document shortly after his arrival at the embassy in the summer of 1993.) We are requesting that this accounting be provided to the Select Subcommittee in hard copy form. We also ask that the disk on which the original is maintained also be provided;
- the Ambassador's appointment calendar from the date of his arrival through November 30, 1994;
- any existing phone logs of calls made to or from Ambassador Galbraith during that same time frame;
- all requests for travel and/or travel vouchers submitted by Ambassador Galbraith

from the time of his arrival in Mission in Zagreb through November 30, 1994;

records of briefings or hearings at which Department of State personnel spoke or testified to Members and staff regarding violations of the arms embargo including the dates of such briefings or hearings; questions and answers provided at the briefing or hearing or, subsequently, for the record; lists of attendees and briefers; and any materials that were distributed at such hearing or briefing;

telephone billing records maintained by the Department of State for those telephone lines, including STU-III, used or assigned to Ambassador Galbraith's office or residence; and/or

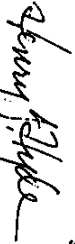
any memoranda indicating briefings given by Ambassador Galbraith to Members of Congress or staff regarding weapons flows into Croatia and Bosnia or the issue of the terrorist threat to US Embassy personnel or US military personnel in the former Yugoslavia from the time of his arrival at Mission through the current date.


On May 23, 1996, the Department of State provided documents to the House International Relations Committee, pursuant to a request submitted by Chairman Glenn by letter dated May 21, 1996. We would, at this time, reiterate that same request, asking for any documents subsequently provided to any other Congressional Committee from May 23, 1996 through the present date.

We understand that some, if not most, of the requested items may be maintained at our Embassy in Zagreb. Please do not hesitate to contact our respective staff at 225-2264 (Agriculture) and 224-2274 (Ambassy). If compliance with this request cannot be accomplished by the date indicated herein, so that other accommodations for compliance with this request can be arranged, the requested materials should otherwise be delivered to the Subcommittee offices at HD-175D Ford House Office Building.

Thank you for your prompt response to this request.

Sincerely,


HENRY HYDE
Chairman


LEE H. HAMILTON
Ranking Democratic

MAILING ATTENTION



A letter dated in position of Clerk
Washington, D.C. 20540

JUL 30 1996

Dear Mr. Chairman:

The Secretary has asked that I respond to the July 17, 1996 letter in which you and Representative Hamilton set forth some of the procedural understandings that have been reached by the Select Subcommittee on the United States Role in Iranian Arms Transfers to Bosnia.

Allow me to reiterate at the outset that the Department remains committed to cooperating fully with the Select Subcommittee, with a view toward concluding this inquiry promptly. The Department welcomes your decision to conduct depositions jointly, and we further appreciate that you will make every effort to conduct staff interviews on a joint basis as well. No doubt your decision to proceed in this fashion was motivated by an understanding of the substantial costs and resource burdens associated with mounting -- and responding to -- an investigation of this character.

Your letter also addressed another important issue: the ability of Department attorneys to attend depositions and interviews conducted by the Select Subcommittee. We are firmly of the view that Department attorneys should be present during the interviews and deposition of Department employees when the subject of questioning is official government business and such employees approve of a Departmental legal presence.

The Department is committed to ensuring that the presence of its attorneys during both informal and formal questioning will be consistent with the Subcommittee's fact-finding mission. We would be pleased to consult with you and your staff on

The Honorable
Henry J. Hyde, Chairman,
Select Subcommittee on the United
States Role in Iranian Arms Transfers
to Croatia and Bosnia,
House of Representatives.

this and other procedural matters to ensure that future proceedings are characterized by an atmosphere of full cooperation.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

DATE TYPED: 7/31/96
BY: [illegible]
MAIL ROOM: [illegible]
SUPERVISOR: [illegible]
TELEPHONE: [illegible]
FAX: [illegible]

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

July 31, 1996

Mr. Anthony Lake
National Security Advisor
National Security Council
Old Executive Office Building
Washington, D.C. 20506

Dear Mr. Lake:

Pursuant to this Select Subcommittee's continuing inquiry, we are writing to request that Mr. Sandy Verboew of the National Security Council be made available for a staff deposition during the afternoon of August 6, 1996 at our Select Subcommittee offices. It is anticipated that Mr. Verboew's deposition will last no longer than two (2) hours.

Please notify us immediately if our request cannot be honored, so that we may make alternative arrangements. As Deputy Chief Counsel Pat Murray stated to Mr. James Baker of your office, the testimony sought from Mr. Verboew will concern his activities while serving at the Department of State, not the National Security Council.

Sincerely,



Richard F. Foyler
Chief Counsel



Richard Melzer
Chief Minority Counsel

0:04:16 COMPANY SECURITY LAKER 7/31/96

DATE TYPED: 8/1/96
BY: [illegible]
MAIL ROOM: [illegible]
SUPERVISOR: [illegible]
TELEPHONE: [illegible]
FAX: [illegible]

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

August 1, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

Pursuant to this Select Subcommittee's continuing inquiry into issues surrounding the transfer of Iranian arms to Croatia and Bosnia, we are writing to request that Undersecretary Peter Tarnoff be made available for a staff deposition on August 29, 1996 beginning at 1:30 p.m. at our Select Subcommittee offices. It is anticipated that Mr. Tarnoff's deposition will take approximately two (2) hours.

Please notify us immediately if our request cannot be honored, so that we may make alternative arrangements.

Sincerely,



Richard F. Foyler
Chief Counsel



Richard Melzer
Chief Minority Counsel

0:04:16 COMPANY SECURITY FOYLER 8/1/96

666

THE WHITE HOUSE
WASHINGTON

PRESIDENT'S
OFFICE
ADVISORY BOARD

August 5, 1996

Dear Chairman Hyde:

Thank you for your letter of July 26, received on July 31, requesting a copy of the Board's report and deliberative materials related to the transfer of arms to Bosnia.

As you probably know, pursuant to my offer in early May to brief you on the Subcommittee, I met with the Subcommittee's staff on July 25. I gave a short introduction, described the report in detail, responded to questions, and offered to try to address any further inquiries. I would be happy to provide a similar briefing to you or the members of the Subcommittee.

I cannot, however, provide the records you requested - the report, a list of all persons interviewed, memoranda of those interviews, and any records received by the IOB as part of its review. To do so would seriously and unnecessarily damage the effectiveness of Presidential intelligence oversight. Just as I trust that you consider the confidentiality of communications from your staff essential to Congressional oversight, I believe you would agree that the goal of effective Presidential oversight is best served when senior advisers to the President are able to provide frank and forthright advice and information to the President, without restraint. Without a reliable expectation of confidentiality, Board members might not be as free in their comments to the President, whereas you would also be more hesitant to speak openly to the Board, and Administration officials would probably be less willing to turn to the Board when needed to address matters of concern.

Fortunately, in this case it is quite unnecessary to do violence to the Presidential oversight process or to the line of separation between the Congress and the President. I would assume that the same documents and witnesses that the Board examined are also available to your Subcommittee, so that you can direct any requests to the pertinent agencies and officials. The practice of providing a briefing and responding to questions has been followed in inquiries by both the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning Bosnia and Guatemala. This practice represents a new, constructive cooperation between the Board and the Congressional oversight committees. However, I do not believe that, in the 20 years since the Board was first established by President Ford, the Board's reports and deliberative materials have been, or should have been, provided to the Congress.

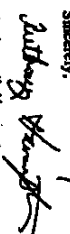
In any event, the President and White House Counsel, rather than the Board, control the disposition of the report and the other requested materials. I have, therefore, forwarded your request to the White House Counsel.

09/03/96 MON 10:41 (TX/EE NO 51561)

667

We look forward to working with you and the Subcommittee to the extent that we can be helpful.

Sincerely,


Anthony S. Harrington
Chairman, Intelligence Oversight Board

The Honorable Henry J. Hyde
United States House of Representatives
Washington, D.C. 20515

cc: The Honorable Lee H. Hamilton

09/03/96 MON 10:41 (TX/EE NO 51561)

U.S. DEPARTMENT OF STATE
OFFICE OF LEGISLATIVE AFFAIRS
WASHINGTON, D.C. 20530

U.S. DEPARTMENT OF STATE
OFFICE OF LEGISLATIVE AFFAIRS
WASHINGTON, D.C. 20530

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HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Cuba and Bosnia
WASHINGTON, DC 20515

August 6, 1996

Mr. Michael Kloosen
Office of Legislative Affairs
U.S. Department of State
Washington, D.C. 20530

Dear Mr. Kloosen:

This letter will recap the issues discussed and memorialize the understanding reached at our meeting of Friday, August 2, 1996.

It is our position that Ambassador Galbraith must tender the entire document described and identified previously in our document request letter of July 26 to Secretary Christopher. This document was described by you as a series of memos (memorandum of conversations) of the Ambassador during his service in Zagreb. As discussed, it is our understanding that it is maintained as a single document, which is kept in a binder together with the original computer disk in the Ambassador's safe behind his desk in his office.

As mentioned, we would agree to make the entire document available only to a single person from both the Majority and Minority staffs for their initial review. That staff member could then share with the Subcommittee staff those portions of the Ambassador's record he or she found to be relevant. As you indicated during our meeting, the Department of State prefers to withhold the entire document from the Subcommittee's review, and wishes to only tender excerpts of the document, which excerpts thus far have been selected by Ambassador Galbraith himself.

We find the State Department's position unacceptable and, as suggested, counterintuitive to the Department's interest in resolving all questions surrounding this matter. Accordingly, without a thorough review of all pertinent documents, the perception that the State Department and Ambassador Galbraith have something to hide about this matter will be impossible to overcome.

August 7, 1996
Page 2 of 2

We look forward to your full compliance with the document request made jointly by Mr. Hyde and Mr. Hamilton in their letter of July 26, 1996.

As for the procedural matters we discussed on Friday, I believe we are in agreement. You understand that we hold open the option of refusing to allow Department attorneys to be present during any deposition where the witness objects or where Chief Counsel of either the Majority or Minority staff objects. We understand the Department's equities in this regard, as well as the Department's view that its attorneys should always be allowed to sit in on depositions of Department employees. We agreed that we would proceed with this understanding, and treat the issue more concretely when or if it arises. Additionally, we agreed to make the deposition transcripts available for Department review. Likewise, deposition transcripts will be available to each witness for the purpose of creating any necessary errata sheets.

You raised an issue as to whether the principles - understood to mean Secretary Christopher, Deputy Secretary Talbot, Undersecretary Faroff - would sit for staff conducted depositions. Quite frankly, I do not understand the issue. H. Res. 416 authorizes Select Subcommittee staff designated by the Chairman to conduct depositions and that is the manner by which all depositions will be taken. Requests for production of the principals for such depositions have already been jointly made by the Majority and Minority Chief Counsels. If the Department is disinclined to honor that request, please let us know, so we can then conduct our inquiry pursuant to other procedural options, i.e. subpoenas.

Finally, we appreciate the Department's offer to support the Select Subcommittee's staff during its necessary foreign travel. Moreover, the Department's prompt cooperation will be extremely vital to our being able to complete this inquiry within the time frame established by H. Res. 416. As discussed, the FBI detailed agents will likewise be conducting interviews of various State Department employees domestically and abroad. The Department's assistance in contacting these individuals and coordinating such interviews will expedite our inquiry and alleviate more burdensome methods of investigation.

I thought our meeting on Friday was beneficial and productive. We hope the State Department's offer of cooperation is understood at all levels of the Department.

Very truly yours,

PATRICK B. MORAN
Deputy Chief Counsel

cc: Richard Melizer
Minority Chief Counsel

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HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Providing Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

August 6, 1996

The Honorable John M. Deutch
Director of Central Intelligence
Central Intelligence Agency
Washington, D.C. 20505

Dear Director Deutch,

As part of the Subcommittee's researching the transit of arms into the former Yugoslavia in contravention of the United Nations Security Council embargo, we would appreciate receiving any information available at your Agency regarding the Pakistani government's involvement and interest in circumventing the arms embargo during the period from June 1, 1993 through December 1, 1995. We have particular interest in:

- any discussions of this by Pakistani Prime Minister Bhutto during her visits to the former Yugoslavia and the United States; and
- the level of cooperation and consultation that may have existed between Iran and Pakistan in breaking the embargo.

Also, to assist our analysis of the level of Iranian influence in the former Yugoslavia, we would appreciate your Agency's best analytic judgement of the number of Iranians present in Croatia and Bosnia (as separate categories) on a monthly basis from January 1, 1994 through the present. Any breakdown of the numbers by affiliation (such as IRGC, diplomatic, intelligence, etc.) would be useful as well, if available.

Finally, we would appreciate an analysis of the financial value to Iran of the commercial and bilateral trade agreements reached between Croatia and Iran as well as Bosnia and Herzegovina during the period from April 1994 to December 1995. For each of the above issues we would appreciate your naming Directorate of Intelligence analysts available who can brief and answer our follow up questions.

Due to the short time-frame in which we must complete our work, we request your compliance with the above by August 15. We sincerely appreciate your Agency's responsiveness and assistance.

Sincerely,

 HENRY J. HYDE
 Chairman


 LEE H. HAMILTON
 Ranking Democratic Member

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 EXECUTIVE SECRETARIAT
 STATE DEPARTMENT
 WASHINGTON, D.C. 20520

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JOHN W. MALIN
 JACELI MALINIA

COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Iranian Arms Transfer to Croatia and Bosnia
 WASHINGTON, DC 20515

August 9, 1996

The Honorable Warren M. Christopher
 Secretary of State
 U.S. Department of State
 Washington, D.C. 20520

Dear Mr. Secretary:

I am writing to follow up on the Subcommittee's initial document request of July 26, 1996, which documents were to be delivered by August 2, 1996.

Although it was understood that a few days might be needed to comply - it now is one week beyond the compliance date. If the documents requested are not produced by close of business, Tuesday, August 13, 1996, we will be compelled to issue a subpoena for the production on those documents.

I anticipate your prompt response.

Sincerely,


 HENRY J. HYDE
 Chairman

cc: Lee H. Hamilton
 Ranking Democratic Member

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DEPT. OF STATE
 EXECUTIVE SECRETARIAT
 STATE DEPARTMENT
 WASHINGTON, D.C. 20520

HOUSE OF REPRESENTATIVES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Iranian Arms Transfer to Croatia and Bosnia
 WASHINGTON, DC 20515

August 12, 1996

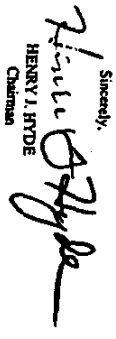
The Honorable Warren M. Christopher
 Secretary of State
 U.S. Department of State
 Washington, D.C. 20520

Dear Mr. Secretary:

To facilitate this Subcommittee's efforts at defining the policy implications of the decision in April 1994 to issue the "no instructions" response to President Tudjman's request for guidance on cooperating in the transportation of weapons to Bosnia, we would appreciate your providing responses and any available documentation to the following:

- 1) What demarches and unofficial comments from foreign officials did the US receive based on the knowledge or suspicion that the US was turning a blind eye to the shipments through Croatia?
- 2) What countries were informed of the "no instructions" policy and in what circumstances?
- 3) What demarches or foreign comments have been reported back to the Department since the "no instructions" policy has become public knowledge?
- 4) The dates of travel and all Department records of state visits by Prime Minister Benazir Bhutto of Pakistan to Washington, D.C. and to Zagreb, Croatia from June, 1993 thru the present day. Itineraries and scheduled meetings with U.S. officials during such visits and copies of all DOS cables relating to those visits.
- 5) The Zagreb Embassy message (Zagreb 1567) which describes a meeting between Charles Redman and Mate Granic on April 18, 1994.
- 6) The Secretary's Morning Summary for April 29, 1994.
- 7) An outgoing cable (number 142119Z) from the Department dated April, 1994.

Please provide these notebooks to the Select Subcommittee no later than close of business August 14, 1996. Thank you for your prompt response to this request.

Sincerely,

HENRY J. HYDE
Chairman

cc: Lee H. Hamilton
Ranking Democratic Member

MAILING UNIT 1000/1000/115

DOCS. REQUIRED
DATE RECEIVED
BY
DATE FORWARDED
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DATE RECORDED
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DATE FILED
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COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Foreign Arms Transfer to Croatia and Bosnia
WASHINGTON, D.C. 20515

NOT POSTED
SECRET MAILING

August 12, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
2201 "C" Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

Pursuant to the letter dated August 12, 1996, sent to you by Chairman Gilman, as well as the Select Subcommittee letter dated August 7, I would ask that the following logistical support and accommodations be extended during the Select Subcommittee's staff visit to Croatia, Slovenia, and the Czech Republic:

Please advise Embassy Zagreb to arrange hotel accommodations, ground transportation, interpreter services, meeting facilities, and access to classified areas for this visit.

Additionally, please confirm the availability of Ambassador Peter Galbraith, for deposition to be conducted on August 19; Ambassador Victor Jakslovich on August 20; and Ambassador Jerome Walker in Prague, on August 21. Depending upon Ambassadors Jakslovich and Walker's availability, staff will require Embassy Zagreb's support in facilitating travel to and from Zagreb, Prague, and Ljubljana.

Contingent upon the information learned during the course of the staff's visit to Croatia, Slovenia, and the Czech Republic, staff may also request and/or require Embassy Zagreb support and travel arrangements into and out of Sarajevo, Bosnia-Herzegovina.

Embassy Zagreb should determine the availability and schedule appointments for depositions of the following Embassy employees: Ambassador Galbraith, UNTAES (deputies) Richard Holzgroppe, Tom Lee Baker, the current NSO, and Protocol Assistant Debra Duric, a foreign service Croatian national in the employ of the United States Department of State.

Embassy Zagreb should also inquire on behalf of the Select Subcommittee, whether Croatian Government officials, including President Franjo Tudjman, Foreign Minister Miro Grahic, Defense

August 14, 1996
Page 2

Minister Gajko Susak, Prime Minister Vukobratovic, the Chief of the Croatian Intelligence Service, and Madame Djergic Susak, would receive Select Subcommittee staff and grant them appointments for interviews in relation to our investigation.

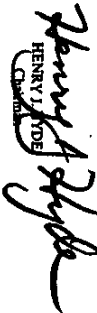
Embassy Zagreb should also arrange interviews with specified community leaders, including Muslim clerics Ceric and Omersak, director of Mladina.

Embassy Zagreb should also arrange Select Subcommittee staff interviews with the British, French, Russian, and German Ambassadors to Croatia, if such Ambassadors were serving at that post during 1994.

Embassy Prague should determine the availability and schedule appointments for depositions of the following Embassy employees: Ambassador Walker, and the former Consul General of U.S. Consulate/Zagreb, (FNU) (LNU), whose tour occurred prior to the raising of that mission to Embassy status.

Thank you for your prompt attention to this matter.

Very truly yours,


HENRY J. HYDE

cc: Benjamin A. Gilman
Chairman
Committee on International Relations

Lee H. Hamilton
Ranking Democratic Member

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Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, D.C. 20515

August 13, 1996

Mr. Anthony S. Harrington, Chairman
Intelligence Oversight Board
President's Foreign Intelligence Advisory Board
The White House
Washington, D.C. 20500

Dear Mr. Harrington:

It was with interest that I read your responsive letter of August 5, declining our request for the President's Intelligence Oversight Board to tender specific items to the Select Subcommittee—the IOB's report, a list of all persons interviewed, memoranda of those interviews, and any other records received by the IOB as part of its review. There is some confusion as to the rationale underlying the IOB's refusal to tender those documents to the Select Subcommittee. As you know, we have been charged by the House of Representatives with conducting a Congressional oversight investigation of the U.S. role in Iranian arms shipments to Croatia and Bosnia, the implications of the Administration's decision to agree to such shipments, as well as the consequences of that policy change.

During your briefing of the Select Subcommittee staff, which certainly was appreciated, you gave an oral presentation of the facts considered by the IOB and the conclusions reached based upon those facts. There is concern on the Select Subcommittee's part that the IOB was not provided with all documents and information relative to the Administration's change in its arms policy in Croatia and Bosnia. We are seeking a written account of the facts and conclusions found by the IOB, together with a list of the names of individuals interviewed and the memoranda of those interviews, so that a thorough review of the Executive Branch's activities in this regard can be undertaken. It is within the Legislature's purview to determine if the money's appropriated to the Executive branch are being spent appropriately.

Part and parcel of the Select Subcommittee's investigation is the determination, as to whether the Administration has been honest with Congress regarding this issue. In order to complete that task, we must review all prior statements of the Administration officials who were responsible for the creation of the new policy, and its execution. Review of the statements made to the IOB as

U.S. OFFICE OF LEGAL ATTACHMENT
CONGRESS OF THE UNITED STATES
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COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
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WASHINGTON, D.C. 20515

FORMAL RETURN
MAIL ADDRESS

August 14, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
201 "C" Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

As you are certainly aware, the Select Subcommittee staff (with Majority and Minority staff representation) will be traveling to Embassy Zagreb, Embassy Prague, and Embassy Ljubljana from August 17 through August 22, 1996. Their purpose is to collect information and to conduct various interviews and depositions of State Department personnel.

While the staff is present at the American Mission in Zagreb, it would be most helpful to our investigation if appropriately cleared staff personnel were given access to, for purposes of review and collection of facts:

- Ambassador Galbraith's chronological cable file;
- Ambassador Galbraith's cables kept in an EXODIS, MODIS, or LIMDIS file; and
- Former FSO Rick Holzapfel's handwritten notes that were kept during his tenure at the Embassy, and which are believed to be maintained in the Ambassador's safe in his office.

Additionally, in order to alleviate costs and the burden of production upon the State Department, Select Subcommittee staff would agree to review the previously requested phone records and travel voucher information that are kept at the Embassy (July 26th document request letters), and to simply make copies of portions of those documents the Select Subcommittee staff determines to be relevant to its inquiry. This would save the Department from making photocopies of all of the requested documents, and shipping those same items to the offices of the Select Subcommittee. This offer of accommodation was previously articulated to State Department staff during the course of their meeting with Select Subcommittee staff on August 2, 1996.

August 14, 1996
Page 2


It would also be helpful to review Embassy Zagreb access documents for the years 1993, 1994, 1995, and 1996. These documents would be in the name of entry and exit logs maintained by the Marine entry station.

The Select Subcommittee staff may be conducting depositions of Ambassadors Wilber (Czech Republic) and Jackovich (Slovenia) while in the Balkans. We would request that those two diplomats provide the Select Subcommittee staff access to and/or copies of any contemporaneous notes and/or other records in their possession relating to the issues under investigation by the Select Subcommittee.

We appreciate your prompt response to this request. Should you have any questions, please do not hesitate to contact the Select Subcommittee staff at (202) 225-2264.

Very truly yours,


HENRY J. HYDE
Chairman


LEE H. HAMILTON
Ranking Democratic Member

MAIL ROOM/ATTENTION UNIT

CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Bosnia Aires, Transjordan, Croatia and Bosnia
 WASHINGTON, DC 20515

August 14, 1996

William Sheehan, Esq.
 Deputy General Counsel (Legal Counsel)
 1600 Defense Pentagon
 Washington, DC 20301-1600

Dear Mr. Sheehan:

Thank you for your telephone message of last night regarding the availability of General Wesley Clark for staff deposition on September 4, 1996. At this point in time, I believe that September 4 will be an acceptable date for all concerned, and I'll discuss details with you further in the next few days.

I also appreciate your cooperation and willingness to facilitate interviews by our staff of various military members currently on site in Croatia. If the current Defense Attache in Zagreb is Lieutenant Colonel John Sadler, then I and my staff investigator will definitely wish to speak with him. If a different officer now serves in that post, we will still need to conduct an interview, but it will be much shorter.

Previous investigation has indicated that members of the Embassy Marine detail, most notably the Gunnery Sergeant at post during 1994, may have information relative to facts bearing upon our inquiry. I would appreciate your assistance in determining who that Gunnery Sergeant is and whether he is still stationed in Zagreb. If he is not, I am requesting that I be advised of his current duty assignment and where our investigators might interview him.

My final request relates to the whereabouts of General Don Kerrick, formerly detailed to the National Security Council as James Walker's deputy. It is our intention to interview General Kerrick relative to his service on the National Security Council in 1994, during the next ten (10) days. It will be sending a copy of this letter to James Baker of the National

Security Council Legal Staff, as per our earlier discussions regarding Major W'clerly. Please advise me as to General Kerrick's current duty assignment, as well as details on his availability for interview on August 22 or August 23, or rather in the week of August 19.

Thank you again for your consistently effective assistance in this matter.

Sincerely,



Richard Meltzer
 Chief Counsel

cc: James Baker, Esq.
 Counsel, NSC

cc: Richard Meltzer
 Minority Chief Counsel

cc: DATA COMECS/ANALYST/RESEARCH/OPS

THE WHITE HOUSE
WASHINGTON

August 14, 1996

Dear Mr. Chairman:

This letter responds to your letters of July 26, 1996, to Mr. Lake, Mr. Harrington and me. I am also responding to a letter from members of the Select Committee Staff to me dated August 2, 1996 requesting the deposition of Mr. Leon Ferch, and in part to letters to Secretary Perry dated August 2 and to Secretary Christopher dated August 7. Matters raised in your letter of August 13 to Mr. Harrington will be addressed in a separate letter.

First, let me underscore that we are committed to ensuring that Congress obtains the facts it needs in order to form a complete understanding of U.S. policy in Bosnia as it relates to your inquiry. To this end, since March, numerous Administration officials have been made available to testify or brief five committees of Congress. In addition, relevant government agencies have undertaken extraordinary efforts to collect, review, and provide Congress materials responsive to numerous requests. The NSC alone has spent well over 100 staff days collecting and reviewing documents. We will, of course, also work with your committee in a good faith effort to provide you with the same information.

I am sure you agree that this should continue to be done in a manner that does not undermine the President's ability to formulate and execute foreign policy. At stake is the principle, understood well by previous Republican and Democratic Administrations, that a President must be able to protect the confidentiality of certain types of communications if he is to carry out his constitutional role. In this regard, if acceding to requests for disclosure would either impair the President's ability to perform his role or result in the inappropriate entanglement of other branches in the President's constitutional function, then the President must be afforded the latitude to protect the prerogatives of the Presidency. There are not new precedents; Presidents and Members of Congress from both parties have recognized these constitutional principles, as have the courts, for generations.

As a result, the Administration has sought to accommodate Congress's interest in the underlying facts in a manner consistent with the interests and constitutional roles of both branches -- in an effort to avoid invocation of privilege and a wholly unnecessary constitutional confrontation. We have thus worked successfully with other committees of the Congress to provide them the information they need for a complete understanding of U.S. policy in a manner that accommodates the legitimate institutional interests of both the legislative and executive branches of government. I am confident we can do the same here.

1. NSC Documents

With respect to your requests for access to documents identified in your letters to Mr. Lake and me, the Administration is prepared to provide your subcommittee access to the same documents, on the same basis, as were previously made available to the Senate Select Committee on Intelligence. In fact, your staff has already begun this process by reviewing materials at the NSC on August 5. We would be prepared to brief on, or show to, the Chairman and Ranking Democratic Member additional documents at your convenience.

2. IOB Report and Staff Depositions

In a separate letter addressed to Mr. Harrington, Chairman Hyde also requested a copy of the Intelligence Oversight Board's report on Bosnia. Mr. Hamilton is not a signatory of this letter. As you know, consistent with long-standing practice, the IOB's report for the President was not made available publicly or to the Congress. Indeed, we are aware of no precedent in this or any other Administration for providing to the Congress IOB reports to the President. As indicated in Mr. Harrington's letter of August 5 to you, the Board's report to the President on its Guatemala review has been handled in a like manner, although in this one instance, a public version was also prepared and released. Nor is the report being relied upon as justification for policy options selected at the time. The IOB undertook a factual review in its Presidential oversight role, not a policy review.

Rather, the IOB's work on behalf of the President is ordinarily conducted in confidence and shared only with the President and his immediate senior advisors. As a matter of comity, however, this Administration has sought to accommodate Congressional interest in the work of the IOB. In the case of Bosnia, for example, the Board was authorized to brief the Congress extensively on its factual review and conclusions.

Mr. Harrington offered to brief you or the Subcommittee staff in early May, an offer which was ultimately accepted on July 25.

Notwithstanding these accommodations, the Board remains a Presidential oversight mechanism. I am sure you would agree that the goal of effective Presidential oversight is best served when the President's senior advisers, such as the Chairman of the IOB, are able to provide frank and forthright advice and information to the President. Without a reliable expectation of confidentiality, Board members might not be as candid in their comments to the President; employees would also no doubt be less willing to talk to the Board freely; and Administration officials likely would be less willing to turn to the Board to address matters of concern. It is vital that we preserve the effectiveness of this Presidential oversight mechanism. This is a goal clearly consistent with our shared interest in effective intelligence oversight.

For the same reasons, and in light of the core constitutional and Presidential nature of the IOB's work, the Administration is not prepared to make Major David Wesley, previously Counsel to the IOB, available for a staff deposition. I submit that no legitimate countervailing legislative interest exists that would justify the damage to the IOB that would result from such an invasive proceeding. This is particularly true given that your Subcommittee can draw its own conclusions on the basis of the investigation undertaken by the House. However, as was the case with the Senate and House Intelligence Committees, and as Mr. Harrington offered at the time of his briefing, we are prepared to make Major Wesley available for an informal briefing in the same way we made Mr. Harrington available.

With respect to the Assistant to the Vice President for National Security Affairs, Mr. Leon Puerth, while we are not prepared to make him available for a staff deposition, he will be made available to brief the Chairman and the Ranking Democratic Member on issues not touching upon the deliberative process.

3. NSC Staff Depositions

Along the same lines, staff requests to interview current and former NSC staff with respect to their NSC duties, specifically Mr. Vershbow and Ambassador Walker, raise serious separation of powers concerns. As noted above, Presidents must be free to seek and receive confidential advice and assistance, of a policy or legal nature, from members of their staff. This concern is heightened in the area of national security. This is a point about process and not about the particular content of any written or oral communication. As you know, based on this constitutional principle, throughout this and prior administrations, NSC staff

have not been available to testify or be deposed by the Congress. Exceptions have been granted only in the most unusual cases when credible allegations of wrongdoing by individual staff members exist. That is not the case here.

Moreover, given the serious constitutional concerns raised by these requests as they relate to the President's national security decision making process, it is our view that such requests should come directly from the Chairman and Ranking Democratic Member of the Select Subcommittee and not from the staff. This is a view consistent with your letter dated July 1 stating that "all requests for documents that have not already been made available and depositions will be in writing and signed by both of us."

Based on these considerations, we are not in a position to make either Mr. Vershbow or Ambassador Walker available for staff depositions with respect to their NSC duties. We are, however, prepared to have NSC staff brief members of your staff on the policy issues and factual matters relating to Bosnia policy, on the condition that a White House lawyer (or White House designee) be present to identify those questions and answers that go directly to the President's deliberative processes, such as matters pertaining to confidential communications to and from the President, Presidential meetings with foreign heads of state, and the content and deliberations of Principals and Deputies Committee meetings. Where such core constitutional functions are implicated, we are prepared to brief the Chairman and Ranking Democratic Member of your Committee directly. In this way the legislative need of Members of Congress will be addressed while at the same time preserving the interest of the executive branch in an effective foreign policy process.

4. Legal Briefing

Finally, while you have not made such a request, the Administration is prepared to provide to your committee a briefing by a panel of legal experts from the government who can give you an overview of U.S. law and international law relating to the events under review. The panel would, of course, be available to address any questions regarding intelligence law or international law that may relate to your review, but not, of course, on any particular deliberations they may have had with policy makers. Further, the Administration would not object to preparation of a transcript of such a briefing, although we would insist upon receiving a copy of any such transcript. The process would be well served by such a discussion of the law.

In closing, the Administration is committed to ensuring that the Congress obtains the information needed for a complete understanding of U.S. policy. I am confident this can be done in a manner which accommodates the legitimate institutional interests of both branches of government.

We believe this process has worked with the Senate and are confident it will work here. We look forward to working with you to this end.

Sincerely,
Jack Quinn
Jack Quinn
Counsel to the President

The Honorable Henry J. Hyde
Chairman
Select Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia
House of Representatives
Washington, D.C. 20515

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Select Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia
WASHINGTON, DC 20515

August 15, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

Pursuant to this Select Subcommittee's continuing inquiry into issues surrounding the transfer of Iranian arms to Croatia and Bosnia, I am writing to renew my Subcommittee staff's request that Ambassador Jenouze Walker, United States Ambassador to the Czech Republic, be made available for a staff deposition on August 21, 1996 at United States Embassy, Prague. It is anticipated that Mr. Walker's deposition will take approximately two (2) hours.

Please notify the Subcommittee Chief Counsel, Richard Pickett, by Noon on Friday, August 16, 1996 with regard to this request.

Sincerely,
Henry J. Hyde
HENRY J. HYDE
Chairman

cc: Lee H. Hamilton
Ranking Democratic Member

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OFFICE OF THE CLERK
 U.S. HOUSE OF REPRESENTATIVES
 CONGRESS OF THE UNITED STATES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Iranian Arms Transfers to Croatia and Bosnia
 WASHINGTON, DC 20515

August 15, 1996

The Honorable Warren M. Christopher
 Secretary of State
 U.S. Department of State
 Washington, D.C. 20520

Dear Mr. Secretary:

Pursuant to this Select Subcommittee's continuing inquiry into issues surrounding the transfer of Iranian arms to Croatia and Bosnia, we are writing to request production of the notes taken by Ambassador Philip Wilcox during your Mar. 5, 1994 meeting with the Director of Central Intelligence, James Woolsey. We also request that any other documents prepared from these notes be tendered to the Select Subcommittee.

Please provide these items to the Select Subcommittee no later than August 23, 1996. Thank you for your prompt response to this request.

Sincerely,

Henry J. Hyde
 HENRY J. HYDE
 Chairman

DO NOT WRITE IN THESE SPACES

Lee H. Hamilton
 LEE H. HAMILTON
 Ranking Democratic Member

Washington, D.C. 20515
 AUG 22

UNCLASSIFIED WHEN CLASSIFIED ATTACHMENTS REMOVED

Dear Mr. Chairman:

This responds to your July 26, 1996 letter to the Secretary requesting that the Department make available to your House Select Subcommittee all documents provided to any other Congressional Committee between the dates of May 23, 1996 and July 26, 1996, regarding Iranian arms shipments to Bosnia. This documentation had originally been requested by Chairman Gilman in his May 21, 1996 letter to the Secretary.

Our review of Department files is ongoing, and we will continue to provide responsive materials as they become available. Enclosed for review by members of your Subcommittee and cleared staff with a need to know, is a group of responsive documentation which we are making available to: the House International Relations Committee; the Senate Foreign Relations Committee; the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence.

Additionally, we have made available another group of documents for review in the Department by appropriately cleared staff. These documents contain sensitive foreign policy information or internal deliberations. Appropriately cleared staff may review the documents, take written notes and identify any which Committee members should see. Verbatim copying of the documents by any method (e.g., handwritten copying, photocopying, voice recording, etc.) may not be done. Department officers would subsequently take any documents identified by staff to the Congress where Members could review them. The documents would remain under

The Honorable
 Henry J. Hyde, Chairman,
 Select Subcommittee on the United States
 Role in Iranian Arms Transfers to Croatia
 and Bosnia,
 House of Representatives.

Classified by: Barbara Larkin, Assistant Secretary, H
 Reason: 1.5 (C), (D), (E)
 DECL: XI, X6

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The Department's control, and Department officers would return them to the Department when the Members' review was completed.

Except for newspaper articles and unclassified United Nations documents, the documents we are making available were originated by the Department. In accordance with the Department's normal practice, we have redacted the names of drafting, clearing and approving officers.

Most of the enclosed documents we are making available contain classified material. Under Executive Order 12958, as you know, the Department may not disseminate classified information outside the Executive Branch except under conditions that ensure that it be given protection equivalent to that afforded such information within the Executive Branch. We are providing access to these documents on the condition that you and your staff protect the classified information to which you have access by applying standards at least as stringent as E.O. 12958 on the handling of classified information. Only those with the need to know this information and with appropriate security clearances may be permitted to examine these documents.

Because of the unique circumstances involved, we are providing the Committee with access to very sensitive foreign policy and deliberative information. Our ability to carry out diplomatic activities and to receive candid advice would be very seriously harmed if these materials were to become public. Please have your office contact Leslie Bassett at 647-8722 to arrange a convenient time for the review of this material.

Included in the documents available for review in the Department are several of the memoranda of conversation prepared by Ambassador Galbraith which have been requested by the Select Subcommittee, as well as notes taken by Amb. Wilcox. We continue to review materials in response to your July 26, 1996 document request.

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-3-

Please do not hesitate to contact us if we can be of further assistance as you continue your inquiry.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Yugoslavia
WASHINGTON, D.C. 20515

August 26, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
2201 "C" Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

As you are undoubtedly aware, the Select Subcommittee has, for some time, been in the process of conducting its investigation of the United States' role in human arms transfers to Croatia and Bosnia during the period that the UN arms embargo was in effect for the entire region of the former Yugoslavia.

On August 1, 1996, the Majority and Minority Chief Counsel, acting on behalf of the Majority and Minority membership of the Select Subcommittee sent letters to you requesting that the State Department make Deputy Secretary Talbot and Undersecretary for Political Affairs Tarnoff available for staff depositions, scheduled for August 29, 1996. In those letters, it was specifically requested that the State Department notify the Select Subcommittee immediately if the request could not be honored. (Letters of August 1, 1996 are attached hereto).

On August 2, 1996, staff was advised by Mr. Kluson of the Office of Legislative Affairs for the Department of State that the Department's legal section was reviewing the resolution creating the Select Subcommittee to determine if the Select Subcommittee has the authority to take staff depositions of "participants." (It was asserted at that time that the "participants" at issue were yourself, and Messrs. Talbot and Tarnoff.) Moreover, it was also asserted at that meeting that the issue of whether the State Department would even allow "participants" to sit for staff depositions was at the same time separate from whether the Select Subcommittee enjoyed the authority to conduct such proceedings. The staff was assured that these two issues would be resolved in the short term. No answer has yet been provided, despite the Majority staff's repeated request for the State Department's determination of these issues. Earlier today, Majority Chief Counsel Rick Packer and Deputy Chief Counsel Patrick Murray inquired of the State Department's Legislative Affairs personnel, Ms. Leslie Bassett, as to Messrs. Talbot and Tarnoff's availability for deposition on Thursday. Ms. Bassett could only provide that there was, as of yet, no resolution of these issues within the Department of State. Ms. Bassett is certainly not the source for the delay.

August 26, 1996
Page 2

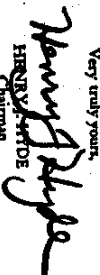
That the State Department may refuse the Select Subcommittee's request to have Messrs. Talbot and Tarnoff sit for the requested depositions cannot be based upon any legal principle. Additionally, the Department's "emerging" or "developing" policy of whether "participants" will submit to staff depositions is also not determinative of whether such depositions will be conducted.

House Resolution 416 unambiguously authorizes such depositions. Furthermore, the resolution authorizes the Chairman (with merely a consultative role for the ranking Minority members) to issue a subpoena compelling the appearance of any individual for such depositions.

If it is the State Department's policy determination that a subpoena must issue before Messrs. Talbot and Tarnoff will appear as desired for deposition by the Select Subcommittee staff on Thursday, August 29th, please advise my staff no later than 6:00 p.m. on August 28, 1996. Upon either the Department's failure to provide a response by that time, or its provision of a negative response, I will then, as required, advise Mr. Hamilton of the State Department's unwillingness to voluntarily produce the Deputy Secretary of State and the Undersecretary of State for Security and Consular Affairs before a Subcommittee of the United States House of Representatives. And, a subpoena compelling their appearance, as directed, will be issued and served.

It cannot be more plainly stated. Regardless of the State Department's "policy" determination of whether "participants" will submit to staff depositions, such depositions will occur--as previously requested--on August 29th. The depositions will take place either by virtue of the State Department's acknowledgment of the legitimate role of the Select Subcommittee to conduct meaningful oversight, or through compulsory process necessitated by the Department's glaring lack of cooperation.

I appreciate your personal attention to this matter. Should you have any questions, please do not hesitate to contact the Select Subcommittee staff at (202) 225-2764.

Very truly yours,

HENRY HYDE
Chairman

cc: Benjamin A. Gillman
Chairman, Committee on International Relations
Lee H. Hamilton
Ranking Democratic Member
CLAYTON CHRISTENSEN/LEGISLATIVE AFFAIRS

DEPARTMENT OF STATE
 OFFICE OF THE SECRETARY
 FOR POLITICAL AFFAIRS
 AND PUBLIC AFFAIRS
 UNITED STATES DEPARTMENT OF STATE
 WASHINGTON, D.C. 20520

Over the Shoulder Speech Campaign
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Senior Subcommittee on the United States Role in
Iranian Arms Transfers to Communist Cuba
 WASHINGTON, DC 20515

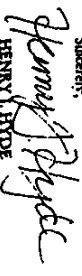
August 28, 1996

The Honorable Warren M. Christopher
 Secretary of State
 U.S. Department of State
 Washington, D.C. 20520

Dear Mr. Secretary:

I wish to bring to your attention that we are still awaiting the declassification of the three documents identified in our letter of July 26 from Chairman Gilman, the Ranking, Minority Member of this Subcommittee, Mr. Hamilton, and myself. Considering the brevity of the documents and the fact that their subject matter has been extensively discussed in open hearings, we were confident you would meet the August 2 deadline. In response to staff's numerous efforts to follow up on this by telephone, the Office of Legislative Affairs has advised that the declassification action is pending but that it cannot provide an estimate of when it will be accomplished. Frankly, the Department's unwillingness to respond to our request is unacceptable. I would appreciate your personally looking into this and making sure that the materials requested are declassified for our use.

In reviewing other State Department documents made available to the Subcommittee, we have also identified Departmental teletype State 038237, dated February 27, 1986, as another document we would like to have declassified for use in our report. In particular, we would like to have paragraph 3 declassified. In that paragraph, the Department provided sanitized talking points on the Iranian and foreign *misinformation* presence in Bosnia. Since more than fifty press worldwide were authorized to use these points at their discretion in talking with foreign governments, it would appear the assessments they contain do not compromise sensitive national security or intelligence information or techniques. I would appreciate your notifying us of the declassification action no later than September 3, 1996.

Sincerely,

 HENRY J. HYDE
 Chairman

cc: Benjamin A. Gilman
 Chairman, Committee on International Relations

DEPARTMENT OF DEFENSE
 OFFICE OF THE SECRETARY
 FOR POLITICAL AFFAIRS
 UNITED STATES DEPARTMENT OF DEFENSE
 WASHINGTON, D.C. 20315

Over the Shoulder Speech Campaign
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Senior Subcommittee on the United States Role in
Iranian Arms Transfers to Communist Cuba
 WASHINGTON, DC 20515

August 29, 1996


The Honorable William J. Perry
 Secretary of Defense
 U.S. Department of Defense
 The Pentagon
 Washington, D.C. 20315

Dear Mr. Secretary:

According to a frontpage article by James Risen and Doyle McManis in the May 2, 1996 edition of the Los Angeles Times, "administration officials" indicated the Defense Department was "conducting a detailed review of congressional testimony given by senior officials to determine what was said to lawmakers at the time." This was, according to the article prepared in the context of what an administration official characterized as a "growing understanding in the administration that in terms of Congress [the "green light" issue] could have been handled better."

Please advise if the Department of Defense has prepared or participated in the preparation of any such report and, if so, please provide the Committee with a copy and the materials gathered in its preparation. House Resolution 416, establishing this Subcommittee, has specified this as an area of investigation.

We would appreciate your response not later than September 5, 1996.

Sincerely,

 LEE H. HAMILTON
 Ranking Democratic Member

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OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Dear Mr. Speaker:

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Senior Subcommittee on the United States Role in
Restoring Arms Transfers to Central and South
AMERICAN
WASHINGTON, DC 20515

August 25, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20530

Dear Mr. Secretary:

According to a front-page article by James Kisen and Doyle McManus in the May 1, 1996 edition of the Los Angeles Times, "administration officials" indicated the State Department was "conducting a detailed review of confidential testimony given by senior officials to determine what was said to lawmakers at the time." This was, according to the article prepared in the context of what an administration official characterized as a "growing understanding in the administration that in terms of Congress this [the 'green light' issue] could have been handled better."

Please advise if the Department of State has prepared or participated in the preparation of any such report and, if so, please provide the Committee with a copy and the materials gathered in its preparation. House Resolution 416, establishing this Subcommittee, has specified this as an area of investigation.

We would appreciate your response not later than September 5, 1996.

Sincerely,

Henry Hyde
HENRY J. HYDE
Chairman

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democratic Member

OFFICE OF THE CLERK
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Dear Mr. Speaker:

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Senior Subcommittee on the United States Role in
Restoring Arms Transfers to Central and South
AMERICAN
WASHINGTON, DC 20515

August 25, 1996

Mr. Anthony Lake
National Security Advisor
National Security Council
Old Executive Office Building
Washington, D.C. 20535

Dear Mr. Lake:

According to a front-page article by James Kisen and Doyle McManus in the May 2, 1996 edition of the Los Angeles Times, "administration officials" indicated that the National Security Council was conducting a review of White House public statements and correspondence concerning the "green light" policy towards the Iranian arms transfers to Bosnia. According to the article, this review was prepared in the context of what an administration official characterized as a "growing understanding in the administration that in terms of Congress this could have been handled better."

Please advise if the National Security Council has prepared or participated in the preparation of any such report and, if so, please provide the Committee with a copy and the materials gathered in its preparation. House Resolution 416, establishing this Subcommittee, has specified this as an area of investigation.

We would appreciate your response not later than September 5, 1996.

Sincerely,

Henry Hyde
HENRY J. HYDE
Chairman

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democratic Member



Washington, D.C. 20515
AUG 29 1996

Dear Mr. Chairman:

The purpose of this letter is to follow up the understanding reached between you and Deputy Secretary Talbot during your August 28 telephone discussion regarding your letter of August 26 and earlier staff requests for depositions of Department principals.

As the Deputy Secretary indicated, the State Department is committed to cooperating with the Subcommittee's efforts to pursue its inquiry. In the interest of both time and getting to the heart of issues of concern to your inquiry, there was an agreement that the Deputy Sec. and Under Secretary Tarnoff would go up next week to meet with you, Rep. Hamilton and other interested members for an hour or two. This would be an informal interview in which the Chief and Deputy Counsels on both sides would also participate.

The Deputy Secretary has testified extensively on this issue before two other Congressional Committees, and we understand from your staff that the Subcommittee has access to those transcripts. He is prepared to clarify any questions you might have concerning the policy the Administration pursued regarding arms transfers to Bosnia.

We suggest that the interview occur on Thursday, September 5 from 10:30-11:30 a.m. If that is convenient for you and other members, an alternative time would be Friday, September 6 from 3:30-4:30 p.m.

We look forward to working together to make the necessary arrangements for these meetings with Department principals. We have conveyed a similar letter to Representative Hamilton.

Sincerely,

Barbara Larkin
Barbara Larkin
Assistant Secretary
Legislative Affairs

The Honorable
Henry J. Hyde, Chairman
Select Subcommittee on the
United States Role in Iranian Arms,
Transfers to Croatia and Bosnia,
Committee on International Relations,
House of Representatives

U.S. GOVERNMENT
PRINTING OFFICE
1995 O-344-000

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS

Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia
WASHINGTON, D.C. 20515

September 3, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

I am writing to request that the State Department release documents to the Select Subcommittee it received from the U.S. Mission to the United Nations pursuant to my staff's mid-July 1996 request to that office relating to the Subcommittee's inquiry into the role of the United States in Iranian arms transfers to Croatia and Bosnia.

At the request of Majority Senior Staff Associate Janine E. DeHery, these materials were prepared by Mr. David Shapiro in the Yugoslavian Sanctions Division at the U.S. Mission to the United Nations. The documents requested include the minutes of all UN Security Council Committee meetings and UN Sanctions Committee meetings, and copies of correspondence received from the governments of Bosnia, Croatia, and Iran referenced in the May 25, 1994 UN Security Council Committee meeting transcript, which we currently have. It is my understanding that these documents are not classified, although the UN restricts their release to Security Council nations.

I am advised that these documents were forwarded to the State Department, simply as a matter of protocol, and have been in the State Department's control since shortly after August 16, 1996. Mr. Shapiro reported that he sent the documents to the State Department (a diplomatic pouch) on or about August 16, 1996.

I appreciate your prompt attention to this matter. Should you have any question or comments regarding this request, please do not hesitate to my staff at (202) 225-2764.

Sincerely,
Henry J. Hyde
HENRY J. HYDE
Chairman

U.S. GOVERNMENT PRINTING OFFICE: 1995

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

September 3, 1996

Honorable Warren M. Christopher
Secretary of State
US Department of State
2201 C Street, NW
Washington, DC 20520

Dear Mr. Secretary:

We are writing to request that the FBI / Diplomatic Security file and investigation reports of foreign service nationals serving in the US Embassy in Zagreb, Croatia and conducted in 1994, be released to the Select Subcommittee.

During a recent trip to Croatia to depose and interview individuals at the US Embassy relative to the issues and events under investigation by this Select Subcommittee, it was brought to the staff's attention that the FBI, together with Diplomatic Security, conducted a thorough background investigation all foreign service nationals, due to concerns of security and counterintelligence. We believe the release of this file to the Select Subcommittee would be helpful to our investigation.

We appreciate your assistance in this matter. Should you have any questions regarding this request, please do not hesitate to contact one of us at (202) 225-2274.

Sincerely,

Henry Hyde
Henry J. Hyde
Chairman

Lee H. Hamilton
Lee H. Hamilton
Ranking Democratic Member

cc: Peter E. Bergin
Director, Office for Investigations and
Counterintelligence
Bureau of Diplomatic Security

DATE: 09/03/96
TIME: 10:00 AM
FROM: HENRY J. HYDE
TO: WARREN M. CHRISTOPHER
SUBJECT: IRANIAN ARMS TRANSFER TO CROATIA AND BOSNIA

Office of the Secretary of the Committee
CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Croatia and Bosnia
WASHINGTON, DC 20515

September 5, 1996

The Honorable Warren M. Christopher
Secretary of State
United States Department of State
2201 "C" Street, NW
Washington, D.C. 20520

Dear Mr. Secretary:

As you are aware by letter dated August 12, 1996, the Select Subcommittee requested that its staff be granted an opportunity to meet with Croatian Government officials, including President Franjo Tudjman, Foreign Minister Miroslav Galic, Defense Minister Gopko Susak, Prime Minister Valeski, the Chief of the Croatian Intelligence Service, and Madame Djordja Susak, to discuss with them their knowledge of facts and events relating to the U.S. role in Iranian arms transfers to Croatia and Bosnia.

The Select Subcommittee would ask the State Department to renew that request at this time. The Select Subcommittee staff is available to meet with those officials, at their convenience, either in Croatia or anywhere the Croatian government deems appropriate.

Please forward this request on our behalf to the Croatian government officials using all appropriate diplomatic channels. Should you have any questions or comments regarding this matter do not hesitate to contact us, or Chief Counsel Rick Pecker at (202) 225-2264.

Your prompt attention to this matter is greatly appreciated.

Very truly yours,

Henry Hyde
HENRY J. HYDE
Chairman

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democratic Member

OFFICE OF THE CLERK
 U.S. HOUSE OF REPRESENTATIVES
 CONGRESS OF THE UNITED STATES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Persian Gulf Operations in Central and South
 WASHINGTON, D.C. 20515

September 5, 1996

The Honorable Warren M. Christopher
 Secretary of State
 United States Department of State
 2201 C Street, N.W.
 Washington, D.C. 20520

Dear Mr. Secretary:

As part of the Select Subcommittee's investigation, we ask that the State Department advance a request from the Select Subcommittee seeking meetings and interviews by Subcommittee staff with Bosnian Government officials, including President Alija Izetbegovic, former Prime Minister Haris Silajdzic, and Vice President Ejup Ganic, to discuss their knowledge of facts and circumstances surrounding the United States Government's decision to convey a message to Croatian Government officials, which resulted in the establishment of weapons from Iran through Croatia into Bosnia despite a United Nations arms embargo on the region.

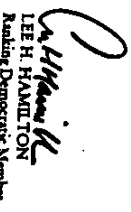
Please make it clear to the Bosnian Government that the Select Subcommittee staff is available to meet with their government officials, at their convenience, either in Bosnia or anywhere the Bosnian Government deems appropriate.

Please forward this request on our behalf to the Bosnian government officials using all appropriate diplomatic channels to do so. Should you have any questions or comments regarding this matter do not hesitate to contact us, or Chief Counsel Rick Fockler at (202) 225-2264.

Your prompt attention to this matter is greatly appreciated.

Very truly yours,


 HENRY J. HYDE
 Chairman


 LEE H. HAMILTON
 Ranking Democratic Member

6 WASHINGTON, DC 20515

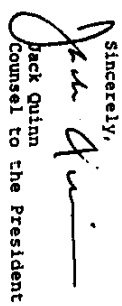
THE WHITE HOUSE
 WASHINGTON
 September 13, 1996

Dear Chairman Hyde:

Thank you for the opportunity to discuss by telephone the steps we are taking to help ensure that your Subcommittee obtains the facts it needs concerning the Bosnian arms matter. I am pleased that you are also prepared to work together to find ways to meet the Subcommittee's legitimate needs without engendering an unnecessary confrontation as to the appropriate line of separation between the Presidency and the Congress.

In this spirit, I would like to suggest that Intelligence Oversight Board Chairman Tony Harrington meet personally with you, Representative Hamilton and any other members of the Subcommittee you consider appropriate, either separately or together. Among other things I know Mr. Harrington would like to address are the nature and role of the IOB and certain misimpressions reflected in your letter of August 13 to him. As you know from my letter of August 14 and Mr. Harrington's letter of August 5, he has briefed members of the House and Senate Intelligence Committees, as well as your Subcommittee staff, on the IOB's inquiry, and we are making great effort otherwise to provide the information you seek for your own inquiry. I think we can further this progress with such a meeting at your earliest convenience.

Sincerely,


 Jack Quinn
 Counsel to the President

The Honorable Henry J. Hyde
 United States House of Representatives
 Washington, D.C. 20515

cc: The Honorable Lee H. Hamilton

100th Congress
1st Session
September 16, 1986

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Communist and Other
Washington, D.C. 20515

INTERNAL SECURITY
COMMUNICATIONS
CRIMINAL MATTERS

September 16, 1986

Mr. John M. Quinn, Esq.
Counsel to the President
West Wing
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Quinn:

Thank you for your letter of Friday, September 13, 1986, which recounted the substance of our August 14th conversation. During that discussion, you expressed a desire to accommodate the Select Subcommittee's need for information in the possession of the Intelligence Oversight Board (IOB), the White House, and the National Security Council (NSC) relating to our investigation, as well as making NSC staff and the National Security Advisor available to the Subcommittee for the taking of testimony. Based on my understanding of your wish to cooperate with this investigation, I directed my staff to contact you and seek an avenue for a resolution of these issues.

Since that time, my Chief Counsel, Rick Packer, and Mr. Baker of your staff, have had a series of conversations to this end. The last of these occurred early last week. During that discussion, Mr. Packer was told by Mr. Baker that the IOB document at issue would not be turned over to the Select Subcommittee as requested. I would say that some progress has been made on the issue of NSC staff being made available for taking their statements. However, there remain questions of whether the statements will be made under oath and whether a verbatim transcript will be made of the statement. It is my strong preference that such be the procedure for the gathering of this information.

Notably, your letter only reiterates a desire for cooperation without specific mention of any of these particulars. Thus, there is a need once again to discuss the service of subpoenas to guarantee production of individuals and documents.

As to your offer to have Mr. Harrington meet with me, I am open to the proposition. Although, it is my understanding that Mr. Harrington has already briefed the Select Subcommittee staff. Furthermore, it is my understanding, as well, that that briefing took place only after the Select Subcommittee requested Mr. Harrington's appearance at a deposition under oath. Mr. Harrington rejected that option. The briefing proceeded as it did only as a matter of accommodation on the Subcommittee's part, and because of the need to gather as much information as possible in the short life span of the Subcommittee.

Let me add that the scheduling of that meeting does not negate the IOB's obligation to provide the information sought by the Select Subcommittee since July 30, 1986. It is truly unfortunate that the limited information sought by the Select Subcommittee from the IOB and the NSC cannot be released, free of compulsory process. But, the Select Subcommittee can complete its work only if it has access to all information it determines to be relevant to its investigation.

I appreciate your personal attention to this matter, and look forward to completing our inquiry, which can only be accomplished with your cooperation.

Very truly yours,


HENRY HYDE
Chairman

cc: Benjamin A. Gilman
Chairman
Committee on International Relations
Lee H. Hamilton
Ranking Democratic Member

710

DOUG MARRITT
 DEPT. SECRETARY
 LEGISLATIVE
 AND INFORMATION
 SERVICES
 2201 C STREET, N.W.
 WASHINGTON, D.C. 20520

CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Prostate Arms Transfer to Cambodia and Thailand
 WASHINGTON, DC 20515

DOUG MARRITT
 DEPT. SECRETARY
 LEGISLATIVE
 AND INFORMATION
 SERVICES

September 16, 1996

Barbara Larkin
 Assistant Secretary
 Legislative Affairs
 U.S. Department of State
 2201 C Street, N.W.
 Washington, D.C. 20520

Dear Madame Assistant Secretary:

Thank you for your letter of September 6, 1996, regarding your proposed arrangement for assuring that the Select Subcommittee have access to all relevant portions of Ambassador Galbraith's documented "recollections" currently in the possession of the State Department. I have considered your proposal, but I am instead proposing that Chief Counsel and Chief Minority Counsel be permitted to review the entire text, not simply those portions the State Department chooses to make available, or to designate one person on each of their respective staffs to make such a review.

The question of relevance is best addressed by individuals intimately familiar with the details and progress of the investigation thus far, as well as theories of inquiry contemplated. Limiting the access to one member of each staff will sufficiently accommodate your Department's concerns about the sensitivity of the contents of the recollections and guard against unnecessary dissemination of the irrelevant portions.

As you are aware, time is of the essence with respect to the Select Subcommittee's investigation. I am requesting that you respond to my counterproposal by close of business on Wednesday, September 18, 1996. Thank you for your prompt attention to this matter.

Sincerely,



HENRY HYDE
 Chairman

cc: Lee H. Hamilton
 Ranking Democratic Member

711

DOUG MARRITT
 DEPT. SECRETARY
 LEGISLATIVE
 AND INFORMATION
 SERVICES
 2201 C STREET, N.W.
 WASHINGTON, D.C. 20520

CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Prostate Arms Transfer to Cambodia and Thailand
 WASHINGTON, DC 20515

DOUG MARRITT
 DEPT. SECRETARY
 LEGISLATIVE
 AND INFORMATION
 SERVICES

September 17, 1996

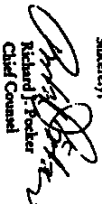
William Sheehan, Esq.
 Deputy General Counsel (Legal Counsel)
 U.S. Department of Defense
 1600 Defense Pentagon
 Washington, DC 20301-1600

Dear Mr. Sheehan:

I am writing to follow up on our earlier discussions regarding the willingness of Secretary William Perry to appear for a staff deposition to facilitate this Select Subcommittee's investigation. On a prior occasion, you indicated that such a request made the Pentagon "nervous" and that you would have to get back to me with the Department's position.

Please respond at your earliest convenience if you have had an opportunity to determine the Department's position as to our request. As the time available for this investigation is dwindling, I need a response so that the Select Subcommittee can explore and consider its options for dispensing with, compelling or otherwise obtaining Secretary Perry's testimony.

Sincerely,



Richard M. Baker
 Chief Counsel

cc: Richard M. Baker
 - Minority Chief Counsel
 cc: Benjamin A. Gilman
 Chairman, Committee on International Relations



Washington, D.C. 20540

SEP 17 1996

Dear Mr. Chairman:

In our continuing effort to facilitate the Select Subcommittee on the U.S. Government's role in Iranian Arms Transfers to Bosnia and Croatia, I am pleased to inform you that we are able to make available an additional number of the documents requested in several letters dating from July 28 to September 3. Material requested but not yet provided will be addressed in subsequent correspondence.

Our review of Department files is ongoing, and we will continue to provide responsive materials as they are identified and processed. However, at this time we believe most responsive documents have been collected and are being reviewed. This additional tranche of documents includes information on concerns of foreign governments regarding arms transfers and deliberations of the United Nations Sanctions Committee. A review of Department files found no documents regarding Mr. Hunter's travel to the United States which were directly relevant to the Subcommittee's inquiry; a few public documents on her visit are being provided in case they may be of interest.

Your July 25 letter requests information on briefings Mr. Galbraith gave to Congressional members and staff. We understand the Subcommittee's interest in this matter and we have undertaken the Subcommittee's request to make a complete list of congressional briefings, both members' staff, to Zagreb in 1994 and 1995 is attached for your reference. We have been informed by Ambassador Galbraith that it was routine for him to brief both congressional and staff delegations during their stay in Zagreb, and to meet with them. It is his recollection that he met with most of the delegations on the attached list. During the course of the briefing, Ambassador Galbraith generally gave an overview

The Honorable
Henry Hyde, Chairman,
Select Subcommittee on the United States
Role in Iranian Arms Transfers to Croatia
and Bosnia,
House of Representatives.

000001

of U.S. policy during Zagreb as well as the situation on the ground. They took questions from delegation members. Embassy staff often attended the briefings and would occasionally respond to specific questions.

According to Ambassador Galbraith during the course of the briefings he and his staff would discuss the arms embargo along with other tools of bilateral and multilateral diplomacy. These discussions generally included perceptions of the effectiveness of the embargo. The level of information shared would depend on whether a classified briefing was being provided; however in all situations the Ambassador and his country team endeavored to provide its best assessment and to respond fully to questions.

In a separate letter on August 12, 1996, you requested access to notebooks maintained by State Department officer Alexander R. Varnhove while he was working at the State Department and subsequently detailed to the NSC. The State Department and the NSC have offered to make available, or have already made available, relevant portions of these materials to the Select Subcommittee (either by briefing or showing you and Ranking Member Hamilton their content, or, where appropriate, by showing portions directly to staff).

On August 14, 1996, the Subcommittee requested access to documents during staff travel to Embassy Zagreb. The Department has provided access in Washington to relevant materials in the Department files on August 28. You requested the declassification of talking points in State 38237. A redacted version of this document is also attached; those portions withheld remain properly classified under E.O. 12958.

In addition to responsive documents attached, we have made available another group of documents for review in the Department by appropriately cleared staff. These documents contain sensitive foreign policy information or internal deliberations. Appropriately cleared staff may review the documents, take written notes and identify any which Committee members should see. Verbatim copying of the documents by any method (e.g., handwritten copying, photocopying, voice recording, etc.) may not be done. Department officers would subsequently take any documents identified by staff to the Congress where Members could review them. The documents would remain under the Department's control, and Department officers would return them to the Department when the Members' review was completed.

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In accordance with the Department's normal practice, in documents originated by the Department we have redacted the names of drafting, classifying and approving officers.

Most of the enclosed documents we are making available contain classified material. Under Executive Order 12958, as you know, the Department may not disseminate classified information outside the Executive Branch except under conditions that ensure that it be given protection equivalent to that afforded such information within the Executive Branch. We are providing access to these documents on the condition that you and your staff protect the classified information to which you have access by applying standard classification markings as E.O. 12958 requires. If you are unable to do so, please advise us so that we may take the necessary steps to ensure that appropriate security clearances may be permitted to examine these documents.

Because of the unique circumstances involved, we are providing the Committee with access to very sensitive foreign policy and deliberative information. Our ability to carry out diplomatic activities and to receive candid advice would be very seriously harmed if these materials were to become public. Please have your office contact Leslie Bassett at 547-8122 to arrange a convenient time for the review of this material.

In the course of our document collection we identified three documents which were referred to the NSC for coordination; the NSC's response is also enclosed.

Please do not hesitate to contact us if we can be of further assistance as you continue your inquiry.

Sincerely,

Barbara Laphin
Barbara Laphin
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

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SEP 18 1995

H. Washington, D.C. 20520

Dear Mr. Chairman:

Thank you for your letter dated September 16, responding to our letter of September 6, regarding access to Ambassador Galbraith's typed recollections of events during August-September 1994 and from November 1994 through November 1995.

We are disappointed that you are not prepared to accept the proposal we made in our letter, under which both you as Chairman and Mr. Hamilton would have been provided access to the remaining portions. In our view, this would have been the most appropriate way to satisfy the desire of the Subcommittee to ensure that portions of the recollections that have not been released are not in fact relevant.

Nevertheless, in the hopes of avoiding a confrontation on this issue, we are prepared to move forward on the basis of your September 16 letter by providing access to Mr. Pocker and Mr. Welter, in lieu of you and Mr. Hamilton, to the entire recollections in order to allow them to satisfy themselves that the remaining portions are in fact not relevant to the Subcommittee's inquiry. To help address our concerns regarding dissemination, part of the understanding would be that any notes taken by either Mr. Pocker or Mr. Welter would not be removed physically from the Department and they would agree not to discuss the recollections with persons other than you and Mr. Hamilton.

We believe it is appropriate to underscore that the Department's stance on this matter of principle is deeply concerned about the prospect of providing access to documents such as these that are not relevant to the Subcommittee's inquiry. We have attempted to meet your concerns as best we can while trying to protect the legitimate interests of the Department.

The Honorable
Henry J. Hyde, Chairman,
Select Subcommittee on the
United States Role in Iranian Arms
Transfers to Croatia and Bosnia,
Committee on International Relations,
House of Representatives.

and the Executive branch. Indeed, following expressions of concern by your staff that they should not be required to rely upon assessments of what should be provided to the Subcommittee by persons who may have a specific interest in the outcome of inquiry, the Department conducted an additional review of the recollections and has made available to the Subcommittee access to all segments that we in good faith believe are relevant to its inquiry. Indeed, virtually all of the recollections are dated well after the period on which the Subcommittee's inquiry is focused.

We hope that you can appreciate our concern about granting access to sensitive documents in order for a congressional committee to verify that those documents are not relevant. Left unchecked, such a principle could be used to justify requests for access to virtually any document that the Department might hold. Accordingly, if we proceed in the manner proposed above, it would need to be understood that this accommodation is being accepted on an exceptional basis, in the interests of bringing this inquiry to an expeditious close. This procedure would not serve as a precedent for providing access to other congressional committees in this or future cases.

We hope that you will accept this approach in the spirit of accommodation in which it is offered.

Sincerely,

Barbara Larkin
Barbara Larkin
Assistant Secretary
Legislative Affairs

cc: The Honorable Lee H. Hamilton

2025 RELEASE UNDER E.O. 14176

September 20, 1996

Dear Chairman Hyde:

Thank you for meeting with Jack Quinn and me concerning your committee's review of matters related to the provision of arms to Bosnia. I trust that you found it as helpful as I did to discuss the background of this matter and ways in which we could help you satisfy your responsibilities in this review without unnecessarily breaching the constitutional line of separation between the Presidency and the Congress and impugning the President's own intelligence oversight.

Pursuant to our understanding, we are providing herewith a list of the names of those persons the Board found necessary to interview in order to gather the facts relevant to its review. Please note that some of the identities in our list are considered classified.

If your committee should find that any other person had significant information with regard to the events the Board reviewed, we would likewise appreciate your identifying them to us. In this regard, though, it should be noted that your inquiry is presumably broader, as our Board does not exercise oversight over policy-making but rather over the intelligence community and intelligence-related laws and Presidential directives.

In the same spirit of mutual cooperation we have enjoyed with the House and Senate intelligence committees, please let me know if you have questions about this list or about the Board.

Sincerely,

Anthony S. Harrington
Anthony S. Harrington
Chairman, Intelligence Oversight Board

The Honorable Henry J. Hyde
United States House of Representatives
Washington, D.C. 20515

cc: The Honorable Lee H. Hamilton
Jack Quinn

This page is unclassified
when separated from attachment.

CL BY: CHAIRMAN, PIAB
REASON: 1.5(f) DECL: X 1,2,4



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CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia

September 24, 1996

The Honorable Warren M. Christopher
Secretary of State
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Secretary:

On August 2, and periodically since that date, Select Subcommittee staff have raised with your Legislative Affairs staff the issue of your availability to provide the Subcommittee with information on the US role in Iranian arms transfers to Croatia and Bosnia during the period the UN Security Council resolution imposing an embargo upon the former Yugoslavia was in effect.

Initially, the State Department raised issues relating to format and procedure, without addressing dates of availability. Now that the issues of how to proceed seem to have been resolved, we would ask that you advise us of dates and times that you would be available to provide a statement that could assist the Subcommittee consider its investigation.

It is our understanding that you wish not to provide your statements under oath, but that a verbatim transcript can be made of our meeting. If that is not the case, please advise promptly. Also, please contact the Select Subcommittee Staff at (202) 225-2264 with time and dates of your availability. Time constraints require that a response be made to this request no later than the close of business September 27, 1996. We would ask that the interview be conducted no later than October 1, 1996.

Unfortunately, the delay in responding to the Select Subcommittee's August 2 and subsequent inquiries, as well as working to resolve the other procedural issues, force the shortness of time within which this request must be accommodated.

Thank you for your prompt and personal attention to this matter.

Very Truly Yours,

Henry Hyde
HENRY HYDE
Chairman

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democratic Member

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfers to Croatia and Bosnia

September 25, 1996

The Honorable William J. Perry
Secretary of Defense
U.S. Department of Defense
The Pentagon
Washington, DC 20301

Dear Mr. Secretary:

We are writing to request that you make available to the Select Subcommittee materials used by Department of Defense officials in briefing Members of Congress and their staffs prior to the commitment of U.S. troops to the IFOR mission in December, 1994.

In particular, we are requesting information that the Defense Department provided to Congress regarding the potential terrorist threats faced by IFOR troops.

Given the tight deadline under which the Subcommittee is operating, we would greatly appreciate your providing this material to us by Wednesday, October 2, 1996.

Thank you for your assistance with this matter.

Sincerely,

Henry Hyde
HENRY HYDE
Chairman

Lee H. Hamilton
LEE H. HAMILTON
Ranking Democrat

CONGRESS OF THE UNITED STATES

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS
Select Subcommittee on the United States Role in
Iranian Arms Transfer to Cuba and Russia
WASHINGTON, DC 20515

Sept. 26, 1996

Mr. Steven Garfinkel
Director
Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, N.W., Room 5-N
Washington, D.C. 20408

Dear Mr. Garfinkel:

We appreciate the Administration's effort to enhance the regulatory and oversight of the classification and declassification process for documents of the Executive Branch, as evidenced by the issuance of Executive Order 12958, dated April 17, 1995. At the same time, I am sure you would agree with us that this Order will have no effect if agencies within the Executive Branch fail to comply with its terms.

In that regard, I want to call to your attention and request action on a request made by our Select Subcommittee on Iranian Arms Transfer to the Russian State in regard to our investigation of the Administration's role in this matter. The documents about which we are most immediately concerned is a Memorandum to the File, dated May 6, 1994, in possession of the Department of State. The Department of State has now provided this Subcommittee with a redacted version of that Memorandum that has raised grave concerns about that agency's fidelity to Executive Order 12958.

In particular, it is absolutely clear to us that some important parts of the Memorandum have been redacted solely for the purpose of "[p]ersonal] embarrassment to a person, organization, or agency;" (Executive Order 12958, Section 1.4(K)) Other parts have been redacted in what appear to be clear violations of Paragraphs (1) and (4) of Section 1.4, as well. In some of these cases, moreover, Principals from the Department of State have already testified under oath in open session regarding matters contained in this memorandum, and yet the Department appears determined to refuse declassification of information in this document that was prepared contemporaneously with the events in question and can verify (or not) the accuracy of the recollection of those testifying. Whatever purpose the classification process can have, it surely cannot be a cover for concealing from the American public information that would allow verification of the accuracy of information given by Administration officials before Congress while under oath.

Of course, the redacted portions of this Memorandum, and the Department's apparently cavalier violations of Executive Order 12958, have also raised broader concerns about the Administration's provision of all the information requested by our Subcommittee. If the Department has so flagrant disregard the Administration's own declassification standards in this instance, it naturally reduces considerably our confidence that they have complied strictly with the letter and spirit of that Order in other regards.

In short, the Department's behavior in regard to this particular memorandum has raised concerns about its fidelity to the Order and to the Administration's other representations regarding openness with respect to all our other requests. Obviously, we are not in a position to independently verify whether it and other relevant agencies have indeed treated all the information requested, but I think you can understand the current source of our concerns in this regard.

I am sure you share my concern that all agencies within the Executive Branch comply strictly with the terms of Executive Order 12958 and more generally with the Administration's stated policy of openness to the American public. Accordingly, I respectfully request that you examine in particular the Department of State's compliance with the terms of Executive Order 12958 in regard to the memorandum cited above, as well as more generally the compliance of all agencies of the U.S. Government with respect to our request for documents relevant to the above captioned investigation.

Our Subcommittee's staff remains available at any time to elaborate further the precise nature of our concerns with respect both to the above-mentioned memorandum and to our general requests for documents relevant to this investigation.

Sincerely,


HENRY J. HYDE
Chairman

CONGRESS OF THE UNITED STATES

HOUSE OF REPRESENTATIVES

COMMITTEE ON INTERNATIONAL RELATIONS

Select Subcommittee on the United States Role in
Iranian Arms Transfer to Cuba and Russia

WASHINGTON, DC 20515

September 26, 1996

Rolph Mazar, Esq.
Chair
Interagency Security Classification Appeals Panel
Deputy Assistant Attorney General
Department of Justice
590 Pennsylvania Avenue, N.W., Room 4234
Washington, D.C. 20530-0001

Dear Mr. Mazar:

We appreciate the Administration's effort to enhance the regulatory and oversight of the classification and declassification process for documents of the Executive Branch, as evidenced by the issuance of Executive Order 12958, dated April 17, 1995. At the same time, I am sure you would agree with us that this Order will have no effect if agencies within the Executive Branch fail to comply with its terms.

In that regard, I want to call to your attention and request action on a request made by our Select Subcommittee on Iranian Arms Transfer to the Boolean Series in regard to our investigation of the Administration's role in this matter. The document about which we are most immediately concerned is a Memorandum to the Files, dated May 6, 1994, in possession of the Department of State. The Department of State has now provided this Subcommittee with a redacted version of that Memorandum that has raised grave concerns about that agency's fidelity to Executive Order 12958.

In particular, it is absolutely clear to us that some important parts of the Memorandum have been redacted solely for the purpose of "preve[n]t[ing] embarrassment to a person, organization, or agency..." (Executive Order 12958, Section 1.6(2)). Other parts have been redacted in what appear to be clear violations of Paragraphs (1) and (4) of Section 1.6, as well. In some of these cases, moreover, Principals from the Department of State have already testified under oath in open session regarding matters contained in this memorandum, and yet the Department appears determined to refuse declassification of information in this document that was prepared contemporaneously with the events in question and can verify (or not) the accuracy of the recollection of those testifying. Whatever purposes the classification process can have, it

surely cannot be a cover for concealing from the American public information that would allow verification of the accuracy of information given by Administration officials before Congress while under oath.

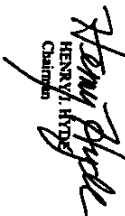
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In short, the Department's behavior in regard to this particular memorandum has raised concerns about its fidelity to the Order and to the Administration's other representations regarding openness with respect to all our other requests. Obviously, we are not in a position to independently verify whether it and other relevant agencies have indeed released all the information requested, but I think you can understand the current source of our concerns in this regard.

I am sure you share my concern that all agencies within the Executive Branch comply strictly with the terms of Executive Order 12958 and more generally with the Administration's stated policy of openness to the American public. Accordingly, I respectfully request that you examine in particular the Department of State's compliance with the terms of Executive Order 12958 in regard to the memorandum cited above, as well as more generally, the compliance of all agencies of the U.S. Government with respect to our request for documents relevant to the above captioned investigation.

Our Subcommittee's staff remains available at any time to elaborate further the precise nature of our concerns with respect both to the above-captioned memorandum and to our general requests for documents relevant to this investigation.

Sincerely,



HENRY H. HYDE
Chairman



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Washington, D.C. 20515
SEP 26 1996

Dear Mr. Chairman:

Thank you for your letter dated September 24, regarding the availability of Secretary Christopher for an interview with Members no later than October 1.

As Deputy Assistant Secretary Klosson discussed with Chief Counsel Mr. Pocker September 26, the Secretary is committed to full cooperation with the Subcommittee's inquiry and the Department has responded accordingly. However, this late request for an interview poses practical problems. The Secretary is in New York all this week in connection with the United Nations General Assembly, during which he is holding an extensive series of bilateral meetings. Given this constraint, the Committee's proposed time frame thus leaves just one day next week for the interview. Unfortunately, the Secretary already has commitments for that period.

I hope you will appreciate the difficulties in scheduling the Secretary for an interview on such short notice. Deputy Secretary Tabbott, Under Secretary Tarnoff and Chief of Staff Donilon have all addressed the Secretary's limited participation in the process which lead to the "no instructions" decision since he was travelling abroad at the time.

Sincerely yours,

Barbara Larkin
Barbara Larkin
Assistant Secretary
Legislative Affairs

The Honorable
Henry J. Hyde, Chairman
Select Subcommittee on the
United States Role in Iranian Arms
Transfers to Croatia and Bosnia,
Committee on International Relations
House of Representatives



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Information Security Oversight Office
National Archives and Records Administration

701 Pennsylvania Avenue, NW Washington, DC 20540

October 1, 1996

The Honorable
Henry J. Hyde
Chairman
Select Subcommittee on the
United States Role in Iranian
Arms Transfers to Croatia and Bosnia
Committee on International Relations
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of September 26, 1996, in which you question the legitimacy of continued classification of portions of a Memorandum to the Files, dated May 6, 1994. The Department of State has provided the Subcommittee a redacted copy of this memorandum.

As Director of the Information Security Oversight Office (ISOO), I have initiated an inquiry into this matter with the Department of State. Please find enclosed a copy of my letter of this date to the Honorable Patrick F. Kennedy, Acting Under Secretary of State for Management, who serves as the Department's Senior Agency Official for its security classification program. I will respond to you with the results of my inquiry immediately upon its completion.

Your letter also requests that ISOO examine the broader question of whether all agencies properly and completely responded to the Subcommittee's calls for information. Such an inquiry would be outside the purview of ISOO's authorities under Executive Order 12958, "Classified National Security Information." We suggest that the Inspector General of each responsive department or agency would be the appropriate official to contact on this issue.

Sincerely,
Steven Gerritkel
Steven Gerritkel
Director

Enclosure
cc: The Honorable John W. Carlin
Archivist of the United States



Department of State
 National Archives and Records Administration
 200 Pennington Avenue, NW
 Washington, DC 20520



726

BY FAX; ORIGINAL MAILED
 October 1, 1996

COPY

The Honorable
 Patrick F. Kennedy
 Acting Under Secretary for Management
 Department of State
 Washington, DC 20520

Dear Mr. Kennedy:

The Information Security Oversight Office (ISOO) has received a letter, copy enclosed, from the Honorable Henry J. Hyde, Chairman, Select Subcommittee on the United States Role in Iranian Arms Transfers to Croatia and Bosnia, House of Representatives Committee on International Relations. In this letter, Chairman Hyde questions the legitimacy of continued classification of portions of a Memorandum to the Files, dated May 8, 1994. The Department of State has provided the Subcommittee a redacted copy of this memorandum. The Chairman suggests that the continued classification of this memorandum may violate one or more of three prohibitions against classification contained in Section 1.8(a) of Executive Order 12958, "Classified National Security Information" (the "Order").

Under Section 3.3(b) of the Order, the President requires the Director of ISOO to "consider and take action on complaints . . . from persons within or outside the government with respect to the administration of the [security classification] program. . . . In order that I may fulfill this responsibility, I respectfully request that you designate an individual within the Department of State through whom I can pursue my inquiry. Specifically, I request an opportunity to examine the memorandum in question, as well as two other documents that I understand the Department has provided to the Subcommittee. In redacted form, I also request an opportunity to examine other documentation related to this issue and to discuss the continued classification of these documents with an individual or individuals who are responsible for or cognizant of the Department's position.

Thank you for your cooperation on this matter. I would very much appreciate an initial response no later than October 8, 1996. I can be reached at (202) 219-5250.

(Signed) Steven Gartin
 Steven Gartin
 Director

Enclosure

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U.S. SENATE
 CONFIRMATION
 UNIT MAIL ROOM
 SENATE
 SENATE CLERK
 SENATE BUILDING
 WASHINGTON, D.C. 20540

CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 COMMITTEE ON INTERNATIONAL RELATIONS
 Select Subcommittee on the United States Role in
 Iranian Arms Transfers to Croatia and Bosnia
 WASHINGTON, D.C. 20515

October 1, 1996

The Honorable Warren M. Christopher
 Secretary of State
 U.S. Department of State
 Washington, D.C. 20520

Dear Mr. Secretary:

In reviewing documents made available by the Department of State to this Subcommittee, we have determined that the handwritten notes made by Alexander R. Vershbow, former Principal Deputy Assistant Secretary of State for European and Canadian Affairs, will be of critical importance for the preparation of the Subcommittee's report.

The matters contained therein relate to the transmission and implementation of the "green light" policy, and are not diplomatically sensitive. Mainly, the notes describe and detail communications between US Government officials. The notes provide a running contemporaneous account of the internal State Department and NSC discussions about how to handle the Iranian Green Light situation. Accordingly, we ask that you declassify these notes, as well as Mr. Vershbow's deposition transcript, for the Subcommittee to be able to cite and include as exhibits in our public report.

Due to the extremely tight schedule on which the Subcommittee is operating, I would ask that you notify us of the Department's declassification decision no later than Noon on October 4, 1996. If the Subcommittee is not so advised, it will assume that the Department has agreed to declassify the entirety of these documents. Please contact John Miller, Majority Staff Director, or Rick Pickett, Majority Chief Counsel, at (202) 225-2264, if you have any questions or comments regarding this matter.

Very truly yours,
 HENRY J. HYDE
 Chairman

cc: Benjamin A. Gilman, Chairman
 Committee on International Relations
 Lee H. Hamilton
 Ranking Democratic Member
 400 Capitol Building
 Washington, DC 20540

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