

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION CODE
001a. email	James E. Baker to Nancy E. Soderberg; re: Information for Bosnia PC (1 page)	07/14/1995	P5
001b. email	James E. Baker to Nancy E. Soderberg et al; re: Legal Availability of 614 Waiver (1 page)	07/14/1995	P5
002a. email	Alexander Vershbow to Anthony Lake; re: Bosnia Strategy Paper (1 page)	07/14/1995	P1/b(1)
002b. paper	re: Bosnia Strategy (4 pages)	07/12/1995	P1/b(1), P5

COLLECTION:

Clinton Presidential Records
National Security Council
Nancy Soderberg (Staff Director)
OA/Box Number: 1402

FOLDER TITLE:

Bosnia, July 1995 [1]

Jimmie Purvis
2006-0647-F
jp2106

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

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

Hawkins, Ardenia R.

COPY

From: Baker, James E.
 To: Soderberg, Nancy E.
 Cc: /R, Record at A1; Danvers, William C.; Drew, S. Nelson; Vershbow, Alexander R.
 Subject: FW: Information for Bosnia PC [UNCLASSIFIED]
 Date: Friday, July 14, 1995 8:19PM

PRIVILEGED AND DELIBERATIVE

Nancy:

I have discussed this further with Conrad and Judy Miller and reviewed a letter to Sen. Dole from Senate Legislative Counsel concluding that "any waiver of section 505(c) may not be made by exercise of the authority of section 614(a)."

Conrad accepts that there are arguments on both sides, but in light of the Dole letter and prudential issues, is not prepared to advise that 614 is legally available without first consulting Justice/OLC. I believe as does DoD/GC that an argument can be made both ways and that use of 614 is legally defensible.

That being said, all counsel are clear that there are serious prudential arguments against using 614; its use will be attacked. As noted above, 614 is an important and flexible FAA authority, which will likely be necessary in the North Korea context and elsewhere. There is clear risk of losing the authority if it is used in the face of Congressional policy, and now legal, opposition to its use.

From: Baker, James E.
 To: Soderberg, Nancy E.; Darby, M. Brooke
 CC: /R, Record at A1; Kreczko, Alan J.
 Subject: Information for Bosnia PC [UNCLASSIFIED]
 Date: Friday, July 14, 1995 03:27 PM

PLEASE PASS THE FOLLOWING TO NANCY IN THE PC ON BOSNIA. Thank you.

Re: Legal Availability of 614 Waiver

Nancy:

The issue is whether Section 614 can be used to waive Section 505(c), which prohibits the granting of military equipment to countries that have sufficient wealth to equip their own forces, in light of Section 505(d)(4), which states that "The authority contained in section 614(a) of this Act may not be used to waive the provisions of this section with respect to further assistance under this chapter." The legal question is whether 505(d)(4) applies only to 505(d)-(3) or whether it applies to 505 generally, including 505(c).

Conrad Harper is reviewing this issue now and State has NOT YET reached a position on whether use of Section 614 is legally defensible to waive section 505(c) in light of 505(d)(4). Even if legally defensible, however, it is safe to say that use of 614 even if ultimately legally available will likely draw heavy Congressional criticism.

We will advise you as soon as State/L reaches a conclusion.