

RELEASE IN PART
B5,B6

From: Mills, Cheryl D <MillsCD@state.gov>
Sent: Saturday, August 29, 2009 8:17 AM
To: H
Subject: Re: Honduras Military Coup Decision

Will call you around 3pm

----- Original Message -----

From: H <HDR22@clintonemail.com>
To: Mills, Cheryl D
Sent: Sat Aug 29 07:48:20 2009
Subject: Re: Honduras Military Coup Decision

Ok--i should be free after 2. Pls email when you want to talk.

----- Original Message -----

From: Mills, Cheryl D <MillsCD@state.gov>
To: H
Cc: Sullivan, Jacob J <SullivanJJ@state.gov>
Sent: Sat Aug 29 06:20:26 2009
Subject: Fw: Honduras Military Coup Decision

See b/l - will call you later today to discuss my convs on this matter

From: Koh, Harold Hongju
To: Steinberg, James B; Mills, Cheryl D; Burns, William J; Verma, Richard R; Sullivan, Jacob J
Cc: Donoghue, Joan E; Harris, Robert K; Spector, Phillip M; Townley, Stephen G; haroldhongjukoh
[redacted]
[redacted]
Sent: Fri Aug 28 21:23:28 2009
Subject: Honduras Military Coup Decision

INTERNAL DELIBERATIVE

Dear All,

After this morning's meeting, L undertook more research [redacted]

[redacted]

B6

B5

Millennium Challenge Report

The Millennium Challenge Act of 2003 requires the submission of a report to Congress and publication in the Federal Register of a list of countries that are candidate countries for MCC assistance, and countries that would be candidate countries but for "specified legal prohibitions on assistance." Honduras is a candidate country. If Honduras is subject to the restrictions in section 7008, it would be listed in that section of the report that identifies countries that would be candidate countries but for legal prohibitions that prohibit assistance. The report would also provide an explanation of the legal prohibition (in fact, other coup restricted countries, such as Cote d'Ivoire, Madagascar, Mauritania, and Sudan, are on the prohibited list and section 7008 is explicitly mentioned).

The list must be approved by the Board of the MCC, of which the Secretary is the chair, and is due on 9/10. It is our understanding that an action memo will be presented to the Secretary, perhaps as early as next week, so that she can approve submission of the report. The action memo will require the Secretary to decide whether Honduras is a country without a "specified legal prohibition" or whether such a prohibition has in fact attached.

B5

Department Legal Practice

I am travelling in New England this weekend but am available at or through the ops center if you wish to discuss. I will be back by the 8:45am meeting on Monday morning and can elaborate further then.

B6

Section 7008 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (Div. H, P.L. 111-8) provides:

“None of the funds appropriated or otherwise made available pursuant to titles III through VI of this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree: Provided, That assistance may be resumed to such government if the President determined and certifies to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office: Provided further, That the provisions of this section shall not apply to assistance to promote democratic elections or public participation in democratic processes: Provided further, That funds made available pursuant to the previous provisos shall be subject to the regular notification procedures of the Committees on Appropriations.”

Harold Hongju Koh

The Legal Adviser

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