UNCLASSIFIED

RELEASING IN PART
1.5(D), B1

UNCLASSIFIED

CONFIDENTIAL

PAGE 01

BOGOTA 11183 01 OF 02 312208Z

ACTION INM-01

INFO

LOG-00  ACDA-15  AMAD-01  ARA-01  C-01  OIGO-01  HA-09
H-01  INRE-00  INR-01  L-03  ADS-00  OMB-01  PA-01
PM-01  PRS-01  P-01  SNP-01  SP-01  SSO-00  SS-01
TRSE-00  T-01  USIE-00  /043W

------------------------------ 50DELF  312208Z /38

O 312204Z JUL 92
FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC IMMEDIATE 7532
INFO USCINCSO QUARRY HEIGHTS PM
DEA WASHDC//OIO LINEAR//
DEPTJUSTICE WASHDC
AMEMBASSY CARACAS
AMEMBASSY LIMA
AMEMBASSY QUITO
AMEMBASSY LA PAZ
AMEMBASSY GUATEMALA
AMEMBASSY MEXICO
AMCONSUL MONTERREY
AMEMBASSY PANAMA
DIRONDACP WASHDC
JCS WASHDC//CNOD//
NSC WASHDC
DIA WASHDC//CN//
CIA WASHDC//CNC LINEAR//
DIRNSA FT GEORGE G MEADE MD//G2//DCN LINEAR//
USCINCSO NORFOLK VA
HQS/CUSTOMS WASHDC

CONFIDENTIAL

CONFIDENTIAL

PAGE 02

BOGOTA 11183 01 OF 02 312208Z

COGARD INTELCOORDCEN W WASHDC
USCINCFOR FT MCPHERSON GA
DEA EPIC EL PASO TX
DIRFBI WASHDC//CIP UNIT 6//

CONFIDENTIAL SECTION 01 OF 02 BOGOTA 11183

NSC FOR AMBASSADORS PRYCE AND MCNAMARA

Page: 1

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: DONALD A. JOHNSTON
DATE/CASE ID: 25 MAY 2001 200101261
STATE FOR INM/LEVITSKY, ARA/ARONSON, ARA/AND ONDCP FOR GOVERNOR MARTINEZ
DEA WASHDC FOR OF, OFL, DO, AO, AX, OC, OIOA
CUSTOMS FOR IO/C/MEEBHAN

E.O. 12356: DECL:OADR
TAGS: PGOV, SNAR, CO
SUBJECT: COUNCIL OF STATE PLANS HEARINGS ON OVERFLIGHTS, GAVIRIA RESPONDS.

1. (C) SUMMARY: ON JULY 30, THE COUNCIL OF STATE, ONE OF THE THREE HIGH COURTS IN COLOMBIA, ANNOUNCED PLANNED HEARINGS TO DISCUSS THE LEGALITY OF U.S. OVERFLIGHTS. IF THE HEARINGS INDICATE WRONGDOING, THE COUNCIL INTENDS TO TURN THE MATTER OVER TO THE SENATE. IN A LETTER TO THE PRESIDENT OF THE COUNCIL, GAVIRIA DEFENDS HIS ACTIONS, DECLARES THEM CONSTITUTIONAL, AND CALLS FOR COOPERATION FROM ALL THE BRANCHES TO CONTINUE THE DRUG WAR. \"WITH LUCK, THE ISSUE WILL DIE BEFORE IT GOES TO THE SENATE.\" END SUMMARY

2. (U) PRESS REPORTS DURING THE EVENING OF JULY 30

CONFIDENTIAL

PAGE 03  BOGOTA 11183 01 OF 02 312208Z
RELATED COUNCIL OF STATE PRESIDENT ALVARO LECOMpte LUNA PLANS FOR STUDYING THE CONSTITUTIONALITY OF U.S. MILITARY OVERFLIGHTS IN COLOMBIA. LECOMpte INDICATED THE COUNCIL WOULD FOCUS ITS HEARINGS ON WHETHER OR NOT THE OVERFLIGHTS WERE MADE BY WARPLANES AND IF SO, SHOULD THE PRESIDENT HAVE CLEARED THE FLIGHTS WITH THE COUNCIL. LECOMpte ADMITS THE COUNCIL HAS NO INVESTIGATIVE POWERS AND CLAIMS THEY WILL TURN THE CASE OVER TO THE SENATE IF THEY DETERMINE THE ADMINISTRATION'S ACTIONS WERE UNCONSTITUTIONAL.

4. (U) CITING ARTICLE 237 OF THE CONSTITUTION, AND RECOGNIZING THE CONSTITUTIONAL OBLIGATION TO INFORM THE SENATE AND PERHAPS THE COUNCIL OF STATE WHEN FOREIGN TROOPS OR WARPLANES ARE USED IN COLOMBIA, GAVIRIA EXPLAINS THAT THE U.S. OVERFLIGHTS ARE MADE BY C-130'S WHICH CARRY TECHNICAL EQUIPMENT, NOT ARMAMENT, AND THOUGH OF MILITARY DESIGN, THEY ARE NOT WARPLANES. AS SUCH, THE OVERFLIGHTS ARE NOT SUBJECT TO ART. 237. HE ALSO EXPLAINS THAT EACH FLIGHT HAS A COLOMBIAN OFFICER ABOARD AND IS CLEARED WITH THE GOC. SEEKING TO REASSURE THE COUNCIL, GAVIRIA REPEATS CONFIDENTIAL

CONFIDENTIAL

PAGE 04 BOGOTA 11183 01 OF 02 312208Z OFFICIAL GOC POLICY WHICH PROHIBITS THE KIDNAPPING OF ANY COLOMBIAN FROM COLOMBIAN SOIL.

5. (U) GAVIRIA REMINDS LECOMTE THAT THE WORLD IS WATCHING AND THAT COLOMBIA, THE COUNTRY THAT HAS PAID THE DEAREST IN THE WAR AGAINST THE NARCOS, SHOULD NOT LOWER ITS GUARD AND FAIL TO FULFILL ITS OBLIGATIONS IN CONFIDENTIAL

NNNN

CONFIDENTIAL

PAGE 01 BOGOTA 11183 02 OF 02 312209Z ACTION INM-01

INFO LOG-00 ACDA-15 AMAD-01 ARA-01 C-01 OIGO-01 HA-09
H-01 INRE-00 INR-01 L-03 ADS-00 OMB-01 PA-01
PM-01 PRS-01 P-01 SNP-01 SP-01 SSO-00 SS-01

Current Class: CONFIDENTIAL
CONFIDENTIAL

PAGE 02 BOGOTA 11183 02 OF 02 312209Z
COGARD INTELCOORDDCEN W WASHDC
USCINCOR FOR FT MCPHERSON GA
DEA EPIC EL PASO TX
DIRFBI WASHDC//CID UNIT 6//

CONFIDENTIAL SECTION 02 OF 02 BOGOTA 11183

NSC FOR AMBASSADORS PRYCE AND MCNAMARA
STATE FOR INM/LEVITSKY, ARA/ARONSON, ARA/AND
ONDCP FOR GOVERNOR MARTINEZ
DEA WASHDC FOR OF, OFL, DO, AO, AX, OC, OIOA
CUSTOMS FOR IOC/MEBHAH

E.O. 12356: DECL:OADR
TAGS: PGOV, SNAR, CO
SUBJECT: COUNCIL OF STATE PLANS HEARINGS ON OVERFLIGHTS, GAVIRIA Responds.
INTERNATIONAL TREATIES OR AGREEMENTS.

6. (U) HE ENDS THE LETTER SAYING "I WILL USE... ALL MEANS OF INTERNATIONAL COOPERATION THAT THE COMMUNITY OF NATIONS CAN OFFER, IN ORDER TO CAPTURE ESCOBAR" AND EXPECTS "TO FIND NEITHER COMPLACENCY NOR COMPlicity WITH ORGANIZED CRIME IN THIS COUNTRY."

7. (C) IN A JULY 31 MEETING WITH THE AMBASSADOR AND ADC, GAVIRIA ASKED THE AMBASSADOR TO MEET WITH LECOMTE TO EXPLAIN THE NATURE OF THE AIRCRAFT AND THE PROCEDURES USED TO ENSURE THEY ARE FULLY AUTHORIZED BY THE GOC. THE AMBASSADOR AGREED TO DO SO.

CONFIDENTIAL

PAGE 03

BOGOTA 11183 02 OF 02 3122092

8. (C) COMMENT: AS ONE OF THREE CO-EQUAL COURTS OF FINAL APPEAL, THE COUNCIL SURFERS FROM A LACK OF THINGS TO DO. CONTROVERSIES OVER USG OVERFLIGHTS HAVE SURFACED SEVERAL TIMES OVER THE LAST TWO YEARS. THE COUNCIL OF STATE'S LACK OF RESPONSE AT THAT TIME MAKES THIS APPEAR TO BE A REACTION TO HEADLINES RATHER THAN A LEARNED LEGAL INITIATIVE. THE ONLY ISSUE SEEMS TO BE WHETHER THE PLANES INVOLVED IN THE OVERFLIGHTS CAN BE CHARACTERIZED AS "WARPLANES." THIS IS THE TYPE OF TRIVIALITY WHICH CAN, AND WE HOPE WILL, BE SETTLED POLITICALLY BEFORE IT REACHES THE THE SENATE. END COMMENT. BUSBY.

CONFIDENTIAL

NNNN

Current Class: CONFIDENTIAL