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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			

-----50DE1F 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
 DIRONDCP WASHDC
 JCS WASHDC//CNOD//
 NSC WASHDC
 DIA WASHDC//CN//
 CIA WASHDC//CNC LINEAR//
 DIRNSA FT GEORGE G MEADE MD//G2/DCN LINEAR//
 USCINCLANT NORFOLK VA
 HQS/CUSTOMS WASHDC

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

C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 11183

NSC FOR AMBASSADORS PRYCE AND MCNAMARA

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: DONALD A. JOHNSTON
DATE/CASE ID: 25 MAY 2001 200101261

DEPT OF STATE APPEALS REVIEW PANEL (ARE)
 () Found
 () Denied
 () Deny
 Exemptions
 ARP Action Cert
 Date 07/12/02

UNCLASSIFIED

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/MEEHAN

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

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

3. (U) PRESIDENT GAVIRIA SENT A LETTER TO LECOMPTE
ON JULY 30 EXPRESSING ASTONISHMENT AT THE POSITION OF
THE COUNCIL OF STATE. HE STATES THE TECHNICAL
COOPERATION BETWEEN THE COLOMBIAN AIR FORCE (FAC) AND
THE U.S. MILITARY HAS GONE ON FOR MORE THAN THREE
YEARS, AND THAT THE COLOMBIAN POLICE AUTHORITIES NEED
THE TECHNICAL ASSISTANCE OF THE USG IN ORDER TO FIND
PABLO ESCOBAR.

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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

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OFFICIAL GOC POLICY WHICH PROHIBITS THE KIDNAPPING OF ANY COLOMBIAN FROM COLOMBIAN SOIL.

5. (U) GAVIRIA REMINDS LECOMPTE 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

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TRSE-00 T-01 USIE-00 /043W
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FM AMEMBASSY BOGOTA
TO SECSTATE WASHDC IMMEDIATE 7533
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CIA WASHDC//CNC LINEAR//
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C O N F I D E N T I A L SECTION 02 OF 02 BOGOTA 11183

NSC FOR AMBASSADORS PRYCE AND MCNAMARA
STATE FOR INM/LEVITSKY, ARA/ARONSON, ARA/AND
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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 ADCM, GAVIRIA ASKED THE AMBASSADOR TO MEET WITH LECOMPTE 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.

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8. (C) COMMENT: AS ONE OF THREE CO-EQUAL COURTS OF FINAL APPEAL, THE COUNCIL SUFFERS 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

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