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TITLE: SUBJECT: COUNCIL OF STATE PLANS HEARINGS ON OVERFLIGHTS, GAVIRIA RESPONDS.

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TEXT:

TAGS: PGOV, SNAR, CO

COMBINE: COMPLETE

RELEASED IN PART B1,25X6,B3 CIA PERS/ORG

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.

[Redacted] END [Redacted] SUMMARY

25X6 B1

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

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REVIEW AUTHORITY: James Cooper, Senior Reviewer

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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.

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 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

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.

8. (C) COMMENT: AS ONE OF THREE CO-EQUAL COURTS OF

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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." [REDACTED]

[REDACTED] END

COMMENT. BUSBY

25X6
B1

END OF MESSAGE CONFIDENTIAL

[REDACTED]

B3 CIA PERS/ORG

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TOR: 312207Z JUL 92 BOGOTA 11183

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CONTROLS: C O N F I D E N T I A L 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/MEEHAN E.O. 12356: DECL:OADR

DECLASSON: MR

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DOCST: ACTIVE

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FROM: FM AMEMBASSY BOGOTA

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GUIDE-UID: 1012/1gbx06
 HEADER: OO RUEAIIA
 DE RUEHBO #1183/01 2132206
 ZNY CCCCC ZZH
 O <ORIGDTG>312204Z JUL 92</ORIGDTG>
 <FROM>FM AMEMBASSY BOGOTA</FROM>
 <TO>TO RUEHC/SECSTATE WASHDC IMMEDIATE 7532</TO>
 INFO RHLBAAA/USCINCSO QUARRY HEIGHTS PM
 RUEHNA/DEA WASHDC//OIO LINEAR//
 RUEBWJA/DEPTJUSTICE WASHDC
 RUEHCV/AMEMBASSY CARACAS 2549
 RUEHPE/AMEMBASSY LIMA 3263
 RUEHQT/AMEMBASSY QUITO 2628
 RUEHLP/AMEMBASSY LA PAZ 2177
 RUEHGT/AMEMBASSY GUATEMALA 3581
 RUEHME/AMEMBASSY MEXICO 9843
 RUEHYM/AMCONSUL MONTERREY 0432
 RUEHZP/AMEMBASSY PANAMA 9455
 RHEHOND/DIRONDCP WASHDC
 RUEKJCS/JCS WASHDC//CNOD//
 RHEHNSC/NSC WASHDC
 RUEKJCS/DIA WASHDC//CN//
 RUEAIIA/CIA WASHDC [REDACTED]
 RUETIAA/DIRNSA FT GEORGE G MEADE MD//G2/DCN LINEAR//
 RUCBSAA/USCINCLANT NORFOLK VA
 RUEBMRA/HQS/CUSTOMS WASHDC
 RULSJGA/COGARD INTELCOORDCEN W WASHDC
 RHCGRB/USCINCFOR FT MCPHERSON GA
 RUEHNA/DEA EPIC EL PASO TX
 RUEHFB/DIRFBI WASHDC//CID UNIT 6//
 BT

B3 CIA PERS/ORG

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 TO: TO RUEHC/SECSTATE WASHDC IMMEDIATE 7532
 TOR: 182201

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