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TITLE: SUBJECT: DAS MCLEAN MEETS WITH MINJUS GIRALDO

ORIGDATE: 199011281634

SOURCE: STATE

DOCNO: BOGOTA 18983

TEXT:

TAGS: SNAR, KJUS, CJAN, PHUM, CO

COMBINE: COMPLETE

SUBJECT: DAS MCLEAN MEETS WITH MINJUS GIRALDO

REF: A) BOGOTA 18669 B) BOGOTA 15440

1. SECRET -- ENTIRE TEXT.
2. THIS MESSAGE WAS PREPARED SUBSEQUENT TO DAS MCLEAN'S DEPARTURE FROM BOGOTA AND WAS NOT CLEARED BY HIM.
3. BEGIN SUMMARY: IN A FRANK NOV. 24 CONVERSATION MINISTER OF JUSTICE JAIME GIRALDO TOLD VISITING DAS PHIL MCLEAN AND POLOFF THAT HE BELIEVES THE FORTHCOMING CONSTITUTIONAL ASSEMBLY WILL BAR THE EXTRADITION OF COLOMBIAN NATIONALS. NEVERTHELESS, HE INSISTS, THE GOVERNMENT REMAINS FIRM IN ITS COMMITMENT TO DESTROY THE COUNTRY'S NARCO MAFIAS. THE GOC IS STRENGTHENING THE JUDICIAL SYSTEM SO THAT, IN THE ABSENCE OF EXTRADITION, TRAFFICKERS CAN EFFECTIVELY BE TRIED IN COLOMBIA. THE MINISTER ALSO CRITICIZED AN OVERLY ACADEMIC CONCEPT OF HUMAN RIGHTS WHICH HE BELIEVES IS INTERFERING WITH BOTH JUDICIAL REFORM EFFORTS AND EXTRADITION.
4. GIRLADO THINKS SOME TOP NARCOS MAY SURRENDER TO THE AUTHORITIES. HE ADDS, HOWEVER, THAT IN THE ABSENCE OF A SURRENDER, IT IS UNLIKELY THAT PABLO ESCOBAR OR OTHER TOP NARCO CAPOS WILL BE CAPTURED ALIVE. AS THE CONVERSATION CONCLUDED, GIRALDO ADVISED OF PROBABLE NEW PROCEDURAL REQUIREMENTS WHICH WILL COMPLICATE OBTAINING SUCCESSFUL EXTRADITIONS EVEN BEFORE THE CONSTITUTIONAL ASSEMBLY ACTS. END SUMMARY.

**REVIEW AUTHORITY: James Cooper, Senior
Reviewer**

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5. ON NOVEMBER 26 DAS MCLEAN, ACCOMPANIED BY POLOFF, MET AT LENGTH WITH MINISTER OF JUSTICE JAIME GIRALDO AT THE MINISTER'S MODEST MIDDLE CLASS RESIDENCE. ALTHOUGH THE MINISTER'S SATURDAY AFTERNOON COMMENTS WERE SOMETIMES DISTURBINGLY FRANK, THE TONE OF THE MEETING WAS AMICABLE.

CONSTITUENT ASSEMBLY LIKELY TO ELIMINATE EXTRADITION

6. GIRALDO SAID HE BELIEVES THE FORTHCOMING CONSTITUENT ASSEMBLY WILL BAR THE EXTRADITION OF COLOMBIAN NATIONALS. HE CITED THE HIGH VOTE TOTAL LIKELY TO BE GARNERED BY THE M-19 AND OTHER EXTRADITION OPPONENTS AND THE EXPECTED OPPOSITION TO EXTRADITION FROM EX-PRESIDENTS PASTRANA AND LOPEZ. THE MINISTER INDICATED THAT HE PERSONALLY SEES EXTRADITION AS A USEFUL TOOL BUT GAVE NO INDICATION THE GOC WOULD MAKE A STRONG EFFORT TO KEEP EXTRADITION ALIVE. INSTEAD, HE SAID, THE GOC IS MOVING AHEAD RAPIDLY WITH PLANS TO REFORM THE CRIMINAL JUSTICE SYSTEM, TO IMPROVE CHANCES FOR IMPORTANT TRAFFICKERS TO BE TRIED IN COLOMBIA.

7. MCLEAN NOTED THAT, ALTHOUGH WE STRONGLY SUPPORT REFORMING THE COLOMBIAN JUDICIAL SYSTEM, HE FOUND IT DIFFICULT TO BELIEVE THAT, IN THE SHORT RUN, THE GOC WOULD BE ABLE TO JAIL PABLO ESCOBAR OR OTHER TOP CAPOS. HE POINTED TO SEVERAL PAST INCIDENTS IN WHICH DETAINED SENIOR TRAFFICKERS HAD EFFECTIVELY BRIBED THEIR WAY TO FREEDOM. GIRALDO ADMITTED CORRUPTION HAD BEEN A PROBLEM IN THE PAST, BUT THOUGHT IT COULD LARGELY BE CONTROLLED IN THE FUTURE. COLOMBIA, HE ADDED, WAS NOT THE ONLY COUNTRY WHERE NARCOS HAD USED BRIBERY TO ESCAPE JUSTICE. SIMILAR INCIDENTS HAVE OCCURRED IN THE U.S. AND IN SPAIN (WHEN THE COUNTRY'S HIGHEST COURT, WHICH GIRALDO BELIEVES WAS BRIBED, EXTRADITED JORGE LUIS OCHOA AND GILBERTO RODRIGUEZ OREJUELA TO COLOMBIA INSTEAD OF THE U.S.) SEVERAL YEARS AGO..

ESCOBAR AND COMPANY UNLIKELY TO BE TAKEN ALIVE

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8. ACCORDING TO GIRALDO, THERE IS LITTLE CHANCE ESCOBAR OR HIS TOP ASSOCIATES WILL BE CAPTURED ALIVE. THESE ARE EXTREMELY DANGEROUS MEN WHO HAVE COMMITTED HORRIBLE CRIMES--THE SECURITY FORCES ARE UNWILLING TO SEE THEM RELEASED IN A FEW MONTHS ON LEGAL TECHNICALITIES OR BECAUSE OF A CORRUPT JUDGE. GIRALDO SAID THERE WAS AN ACCORD BETWEEN THE VARIOUS ELEMENTS OF THE SECURITY FORCES ON WHAT TO DO WITH TOP CAPOS IF LOCATED. HE THEN BACKTRACKED SOMEWHAT, ASSERTING IT WAS POSSIBLE THESE MEN MIGHT BE CAPTURED ALIVE. IF, HOWEVER, THERE IS THE SLIGHTEST INDICATION THAT A NARCO CAPO INTENDED TO USE FORCE TO RESIST ARREST, THE SECURITY FORCES WILL GO IN SHOOTING.

NARCOS MAY ACCEPT SURRENDER OFFER

9. GIRALDO BELIEVES THERE IS A REAL POSSIBILITY THAT A TOP NARCO MIGHT TURN HIMSELF IN UNDER THE GOVERNMENT'S AMENDED DECREE 2047, WHICH OFFERS IMMUNITY FROM EXTRADITION. HE THINKS AT LEAST SOME TRAFFICKERS WILL RECOGNIZE THAT, IF THEY DO NOT SURRENDER, THEY FACE DEATH AT THE HANDS OF THE SECURITY FORCES OR DECADES IN A U.S. PRISON FAR FROM THEIR HOMES.

10. THE MINISTER WAS UNHAPPY WITH FORMER PRESIDENT MISAEL PASTRANA'S RECENT SUGGESTION THAT THE GOC ACCEPT THE NARCOS' DEMAND THAT THEY BE ALLOWED TO SURRENDER AND BE GRANTED IMMUNITY FROM EXTRADITION, WITHOUT MAKING A CONFESSION. SINCE, AS A PRACTICAL MATTER, IT WOULD BE DIFFICULT OR IMPOSSIBLE FOR COLOMBIAN JUDGES TO CONVICT MANY TOP NARCOS IN THE ABSENCE OF A CONFESSION THE GOC WILL NOT ACCEPT THIS NARCO SURRENDER CONDITION. GIRALDO SAID THAT UNDER DECREE 2047 AS AMENDED, A NARCO NEEDS TO CONFESS TO ONLY ONE TERRORIST OR NARCO RELATED CRIME TO GAIN IMMUNITY FROM EXTRADITION (GIRALDO DISAGREES WITH RAFAEL PARDO'S INTERPRETATION OF 2047 AS AMENDED -- SEE BOGOTA 17982). HE INSISTED THAT THESE CRIMES GENERALLY CARRIED MINIMUM SENTENCES OF EIGHT TO TEN YEARS.

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OVERLY ZEALOUS HUMAN RIGHTS ACTIVISTS

11. GIRALDO CRITICIZED COLOMBIAN JURISTS AND DOMESTIC AND INTERNATIONAL HUMAN RIGHTS ACTIVISTS WHO HE SAID WERE PROMOTING AN IMPRACTICAL, OVERLY ACADEMIC, "MYTH" OF HUMAN RIGHTS. MANY OF THESE INDIVIDUALS ARE SAID TO BE HEAVILY INFLUENCED BY LEGAL DOCTRINES DEVELOPED IN SOUTHERN CONE COUNTRIES WHERE GRAVE RIGHTS VIOLATIONS HAVE LED LEGAL SCHOLARS TO INSIST THAT GOVERNMENT LAW ENFORCEMENT POWERS BE STRICTLY LIMITED. THESE ACADEMICS FAIL TO REALIZE THAT SOME COMPROMISES MUST BE MADE, ESPECIALLY GIVEN THE CURRENT SITUATION IN COLOMBIA. ACCORDING TO GIRALDO, IN SOME INSTANCES, SUCH AS RAIDS ON NARCO LABORATORIES OR RESCUE MISSIONS FOR KIDNAP VICTIMS, THE SECURITY FORCES, FACED WITH WELL ARMED NARCO TRAFFICKERS CERTAIN TO RESIST CAPTURE, ARE FORCED TO OPEN FIRE WITHOUT GIVING THE CRIMINALS A CHANCE TO SURRENDER.

12. GIRALDO BELIEVES THAT THIS MISGUIDED CONCEPT OF HUMAN RIGHTS ACCOUNTS FOR MUCH OF THE CRITICISM OF THE RECENTLY ISSUED DECREE DESIGNED TO STRENGTHEN THOSE ASPECTS OF THE CRIMINAL JUSTICE SYSTEM WHICH DEAL WITH DRUG TRAFFICKING AND TERRORISM (REF A). GIRALDO AGREED WITH MCLEAN'S ASSERTION THAT STRENGTHENING THE LEGAL SYSTEM WAS THE BEST WAY TO PROTECT HUMAN RIGHTS.

13. THE GOC IS RECEIVING PRESSURE TO END EXTRADITION FROM INTERNATIONAL HUMAN RIGHTS GROUPS, ACCORDING TO THE MINISTER. SPECIFICALLY, HE MENTIONED AMERICAS WATCH (AW), WHOSE RECENT REPORT CONDEMNED THE CURRENT ADMINISTRATIVE EXTRADITION PROCEDURES. GIRALDO ASSERTED

THAT THE U.S. BASED ORGANIZATION MAY HAVE BEEN INFILTRATED BY THE NARCOS. POLOFF, NOTING HE HAD RECENTLY MET WITH THE AUTHOR OF THE AW REPORT, SAID THAT, ALTHOUGH WE THOUGHT THE REPORT SERIOUSLY FLAWED, WE DOUBTED THE NARCOS WERE BEHIND IT. DESPITE GIRALDO'S IMPLICATION TO THE CONTRARY, WE KNOW OF NO REPUTABLE INTERNATIONAL HUMAN RIGHTS ORGANIZATION, ASIDE FROM AW,

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WHICH HAS ATTACKED THE GOC'S HANDLING OF EXTRADITION.

ADDITIONAL EXTRADITION PROBLEM

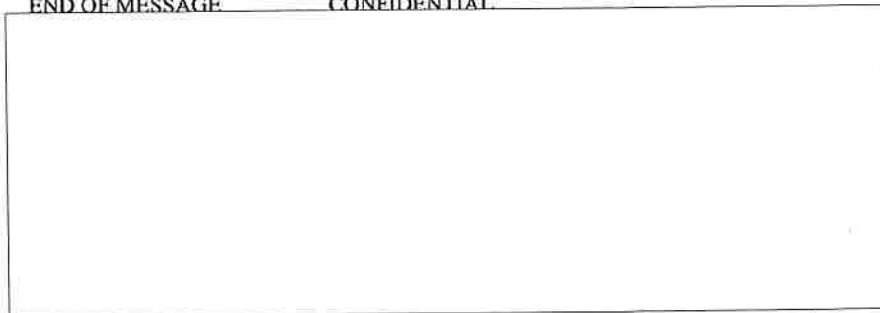
14. WHATEVER THE ULTIMATE FUTURE OF EXTRADITION, THERE IS A NEW, IMMEDIATE PROBLEM RELATED TO ITS IMPLEMENTATION. GIRALDO GAVE POLOFF A COPY OF A SEPTEMBER SUPREME COURT RULING (REF B) WHICH HE NOW INSISTS MEANS THAT ADMINISTRATIVE EXTRADITION CAN ONLY BE CARRIED OUT TO THE EXTENT IT IS CONSISTENT WITH THE EXTRADITION TREATY OF 1888, AS AMENDED. GIRALDO SAID HE WAS STILL STUDYING THE ISSUE, BUT THAT THE USG WOULD HAVE TO ALTER THE MANNER IN WHICH WE FORMULATE OUR EXTRADITION REQUESTS. IN OUR VIEW, GIRALDO'S INTERPRETATION OF THE HIGH COURT DECISION IS UNWARRANTED. WE ARE ATTEMPTING TO DETERMINE EXACTLY WHAT PROCEDURAL CHANGES GIRALDO THINKS MAY BE NECESSARY AND WILL PROVIDE REPORTING ON THIS IN THE NEAR FUTURE.

GOC TO REMAIN FIRM AGAINST NARCOS

15. DESPITE THE UNCERTAIN FUTURE OF EXTRADITION, GIRALDO INSISTED THE GOC WILL REMAIN FIRM IN ITS COMMITMENT TO DEFEAT THE NARCOS. THE TRAFFICKERS, HE NOTED, HAD DONE ENORMOUS DAMAGE TO COLOMBIA. THE PHYSICAL LOSSES CAUSED BY NARCO TERRORISM ARE OBVIOUS, BUT MORE DISTURBING, ACCORDING TO THE MINISTER, IS THE ENORMOUS MORAL DAMAGE PRODUCED BY YEARS OF PERVASIVE NARCO CORRUPTION.

MCNAMARA

END OF MESSAGE CONFIDENTIAL

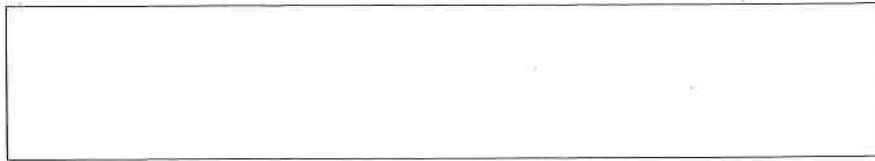


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RUEABND/DEA WASHDC IMMEDIATE

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XREFS: REF: A) BOGOTA 18669 B) BOGOTA 15440

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