

## CONFIDENTIAL

39715611

TITLE: SUBJECT: INSIDE THE CONGRESITO - EXTRADITION,  
 PLEA-BARGAINING AND REPATRIATION

ORIGDATE: 199110041905

SOURCE: STATE

DOCNO: BOGOTA 15467

TEXT:

TAGS: KPRP, SNAR, KJUS, PGOV, CJAN, PINR, CO

COMBINE: COMPLETE

<b>RELEASED IN PART B1,25X6,B3 CIA          PERS/ORG</b>
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SUBJECT: INSIDE THE CONGRESITO - EXTRADITION,  
 PLEA-BARGAINING AND REPATRIATION

REF: BOGOTA 15318

1. (U) SUMMARY: BY A ONE-VOTE MARGIN, THE MINI-CONGRESS PRESERVED A STATE OF SIEGE PROVISION WHICH IF VETOED WOULD HAVE LED TO THE RELEASE OF FORMERLY EXTRADITIBLE COLOMBIANS NOW BEING HELD FOR INVESTIGATION BY COLOMBIAN COURTS. ON OCTOBER 2 A PROPOSAL FOR REPATRIATING COLOMBIAN PRISONERS FROM THE U.S. WAS SUBMITTED TO THE MC. END SUMMARY.

ONE LUCKY NIGHT

2. (U) AFTER MIDNIGHT ON OCTOBER 2, THE 36-MEMBER MINI-CONGRESS (MC) FINISHED PASSING THE LAST OF OVER 90 ARTICLES WHICH MADE UP THE "DEFENSE OF JUSTICE" STATUTE ON THE PUBLIC ORDER COURTS (REFTEL). A COMPANION PART OF THE BILL WAS ARTICLE 1 OF STATE OF SIEGE DECREE 1676, SETTING THE RULES BY WHICH THOSE WHO WERE BEING HELD FOR EXTRADITION (PRIOR TO THE BANNING OF EXTRADITION FOR COLOMBIANS BY BIRTH) CAN BE INVESTIGATED AND TRIED BY COLOMBIAN COURTS. HAD THIS ARTICLE BEEN REJECTED, THE 16 COLOMBIANS PREVIOUSLY SUBJECT TO EXTRADITION RESOLUTIONS WOULD HAVE BEEN SET FREE. THE GOC HAS FORMALLY REQUESTED THE U.S. TO SUBMIT EVIDENCE IN MOST OF THESE CASES.

3. (U) ARTICLE 1 WAS PRESENTED AT 11:30 P.M., AFTER A SERIES OF OTHER KEY SECTIONS ALLOWING ANONYMOUS JUDGES AND

<b>REVIEW AUTHORITY:          James Cooper, Senior          Reviewer</b>
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PROTECTION OF EVIDENCE AND WITNESSES WERE NARROWLY APPROVED (REFTTEL). LIBERAL DELEGATE DIEGO URIBE, WHO JOINED THE M-19/AD BLOC IN OPPOSING MANY "DEFENSE OF JUSTICE" NORMS, HAD JUST GONE HOME FOR THE NIGHT. THE RESULT WAS 18 TO 13 IN FAVOR OF DITCHING THE ARTICLE -- ONE SHORT OF THE 19 VOTES NECESSARY FOR MC DISAPPROVAL OF STATE OF SIEGE LEGISLATION.

4. (C) FOLLOWING THE RAZOR THIN VOTE, JUSTICE MINISTER CARRILLO COMMENTED PUBLICLY THAT DEFEATING THE "FACELESS JUDGES" PROVISION WOULD HAVE BEEN LITTLE IN COMPARISON TO THE IMPUNITY CREATED BY REJECTING DECREE 1676. MINJUS AIDES SAID THEY FELT LUCKY TO HAVE SQUEAKED THROUGH ARTICLE 1, WHICH COULD EASILY BE INTERPRETED AS CONTRADICTING THE NEW CONSTITUTIONAL PRINCIPLE OF NON-EXTRADITION.

## SUBMISSION TO JUSTICE DECREE

5. (C) ONCE DECREE 1676 WAS APPROVED, THE MC TOOK UP A SERIES OF DECREES COMPRISING THE "SUBMISSION TO JUSTICE" STATUTE. THIS LAW, WHICH INCLUDES THE PLEA BARGAINING MEASURES UNDER WHICH PABLO ESCOBAR AND LESSER DRUG MOGULS HAD SURRENDERED, WAS PASSED BY COMFORTABLE MARGINS. HOWEVER NO ONE WAS VERY SURE OF WHAT HAD BEEN APPROVED, SINCE THE GOVERNMENT WITHDREW SEVERAL ARTICLES OR SECTIONS AT THE LAST MINUTE AND THE FINAL DRAFT WAS NOT READ FROM THE CHAIR.

## REPATRIATION -- THERE THEY GO AGAIN

6. (C) ON OCTOBER 2 LEONEL CABEZAS LIZ AND HENRY ORTIZ HERNANDEZ, PRESIDENT AND SEC GEN OF THE FOUNDATION FOR REPATRIATION OF COLOMBIAN PRISONERS ABROAD, SUBMITTED TO THE MC A PROPOSED BILL FOR REPATRIATING COLOMBIAN PRISONERS FROM THE U.S. INCLUDED IN THE LEGISLATIVE PROJECT WERE A DRAFT U.S.-COLOMBIAN AGREEMENT AND MODEL BILATERAL REPAT TREATIES FROM OTHER COUNTRIES. COMMENT: A SIMILAR PROPOSAL WAS EARLIER REJECTED BY THE CONSTITUENT ASSEMBLY ON THE GROUNDS THAT INTERNATIONAL TREATY

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INITIATIVES ARE THE PREROGATIVE OF THE INITIATIVE OF THE EXECUTIVE BRANCH. NO SPONSOR HAS YET BEEN IDENTIFIED TO PRESENT THE DRAFT LAW WITHIN THE MC. ITS CHANCES FOR SERIOUS CONSIDERATION ARE RATED AS LOW. NONETHELESS WE WILL MONITOR THIS DEVELOPMENT. END COMMENT.

PROTECTING VICTIMS OF VIOLENCE

7. (U) THE CHRISTIAN UNION ISSUED A STATEMENT ON THEIR MOTIVES FOR JOINING THE PRO-GOVERNMENT BLOC (CONTRARY TO POPULAR EXPECTATIONS) IN BALLOTING ON THE "JUECES SIN ROSTRO" AND OTHER HOTLY CONTESTED PARTS OF THE PUBLIC ORDER COURT LEGISLATION. THE EVANGELICALS EXPLAINED THAT FACED WITH THE "CRUEL REALITY OF ORGANIZED CRIME AND HITMEN", IT WAS NECESSARY TO CONSIDER THE HUMAN RIGHTS OF THE VICTIMS. THUS THE LEGISLATURE HAS A DUTY "FIRST TO PROTECT THE VICTIMS OF VIOLENCE AND THE WITNESSES; SECOND, THE JUDGES; AND LAST, THE CRIMINAL WHO, BY HIS OR HER INFRACTION MUST BEAR THE GREATEST RISK."

8. (C) COMMENT: THE PRINCIPLE OF PROTECTING VICTIMS OF CRIME WAS AN IMPORTANT VICTORY WON BY CARRILLO DURING THE CONSTITUENT ASSEMBLY. [REDACTED]

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[REDACTED]  
[REDACTED] HE INSERTED INTO THE MANDATE OF THE NEW PROSECUTOR GENERAL THE TASK OF "TAKING CARE OF THE PROTECTION OF VICTIMS, WITNESSES AND INTERMEDIARIES IN THE JUSTICE PROCESS" (ARTICLE 250, POINT FOUR OF THE CONSTITUTION). THIS NORM PROVIDED THE JURIDICAL BASIS FOR SECRET JUDGES AND WITNESSES, WHICH MANY LIBERTARIANS OBJECTED TO AS A VIOLATION OF DUE PROCESS.

9. (C) THE CONGRESITO IS NOW IN THE FRANTIC LAST ROUND BEFORE ITS OCTOBER 4 RECESS. (ITS LAST SESSION BEGINNING NOVEMBER 1 HAS NOW BEEN EXTENDED TO NOVEMBER 30.) THOSE STATE OF SIEGE DECREES NOT CONVERTED TO PERMANENT LAWS BY MIDNIGHT OF THE 4TH WILL EXPIRE. BOTH THE GOVERNMENT AND MC REPRESENTATIVES HAVE HAD PRECIOUS LITTLE TIME TO PREPARE THEIR ARGUMENTS AND SUBMISSIONS. MISTAKES ARE BEING DISCOVERED, WHICH THE ADMINISTRATION IS RACING TO

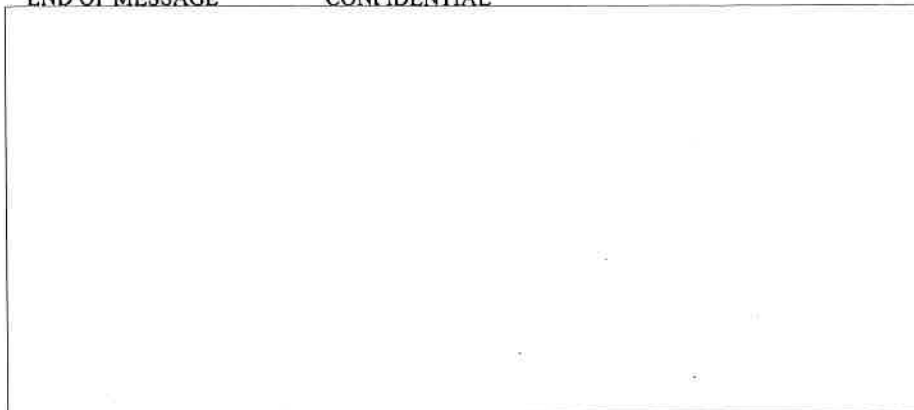
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CORRECT WITH LAST-MINUTE ADDENDA TO BILLS PREVIOUSLY PASSED. A KEY HANDICAP FOR THE GOC'S DEFENSE OF ANTI-NARCO/TERROR STATE OF SIEGE DECREES IS THAT THEY CAN BE CUT AND PASTED, BUT NOT EXTENSIVELY MODIFIED TO ADAPT TO NEW CONSTITUTIONAL NORMS. BUSBY

END OF MESSAGE CONFIDENTIAL

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