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NAZI WAR CRIMES DISCLOSURE ACT
2000

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E.O. 12356: DECL:OADR

TEXT
TAGS: SNAR, PGOV, PREL, PTER, PINR, CJAN, BL
COMBINE: COMPLETE

SUBJECT: JUSTICE SUBSECRETARY LUNA ON EXTRADITION,
TERRORISTS, CORRUPT JUDGES, AND NARCOS

REF: (A) LA PAZ 618, (B) LA PAZ 2604, (C) LA PAZ 2090

1. CONFIDENTIAL - ENTIRE TEXT.

SUMMARY

FOR COORDINATION WITH ed State

DECLASSIFIED AND RELEASED BY
CENTRAL INTELLIGENCE AGENCY
SOURCES METHODS EXEMPTION 3828
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2001 2007

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2. OVER LUNCH MARCH 1, SUBSECRETARY OF JUSTICE ALBERTO LUNA TOLD POLOFF:

-- THE GOB WILL GIVE A DRAFT OF A GOB PROPOSED EXTRADITION TREATY TO THE EMBASSY "WITHIN TWO WEEKS." THE DRAFT WILL ADDRESS "MANY PROBLEMS" IN THE 1990 DRAFT, INCLUDING A FAILURE TO SPECIFY CRIMES SUBJECT TO EXTRADITION, HOW TO DEAL WITH THE U.S. FEDERAL SYSTEM, AND "MANY OTHER POINTS." POLOFF REMINDED LUNA THE USG EXPECTS THE 1990 DRAFT TO BE SIGNED, AND IS NOT IN A NEGOTIATING MODE.

-- THE GOB WILL REQUEST "IN THE NEXT FEW DAYS" THAT FRENCH CITIZEN ALAIN MESILI BE TURNED OVER TO THE GOB "IN RECIPROCITY" FOR THE DELIVERY TO FRANCE OF **KLAUS BARBIE** IN THE LATE 1980'S.

-- THE BOLIVIAN SUPREME COURT SHOULD RULE "BY THE END OF THE WEEK" ON TWO OF THE APPEALS IN THE CASES OF THE ARREPENTIDOS, MAJOR NARCO-TRAFFICKERS WHO RECEIVED RIDICULOUSLY SHORT SENTENCES AFTER TURNING THEMSELVES IN. LUNA EXPECTS THE RULINGS WILL CONTAIN GOOD NEWS, I.E, INCREASED SENTENCES.

-- LUNA NOW HAS THE JUDICIAL AUTHORITY TO TRANSFER TERRORIST JHONNY (SIC) PERALTA TO MORE-SECURE CHONCHOCORO PRISON, BUT IS HESITATING ABOUT MAKING THE MOVE. WE URGED HIM TO DO IT, NOW.

-- LUNA WILL INTERVENE IN THE CORRUPTION CASE PENDING IN URURO AGAINST THE JUDGES OF THE SECOND SPECIAL NARCOTICS CHAMBER OF LA PAZ. WE HAD RECEIVED WORD THAT THE CASE AGAINST THE JUDGES WAS GOING TO BE DROPPED, AND SO ADVISED LUNA. LUNA PROMISED TO CALL THE PRESIDENT OF THE SUPERIOR COURT TO ARGUE AGAINST LETTING THE CASE DIE. END SUMMARY.

LUNA: THE MOON IS THE LIMIT ON EXTRADITION

3. JUSTICE SUBSECRETARY LUNA, LIKE ALL OTHER GOB INTERLOCUTORS INVOLVED IN THE EXTRADITION TREATY REVIEW, HAD BEEN EXTREMELY TACITURN IN PAST ATTEMPTS TO DRAW HIM OUT ON THE GOB VIEW OF SIGNING A NEW EXTRADITION TREATY. THIS TIME HE WAS MORE FORTHCOMING, BUT THE NEWS IS NOT GOOD. THE GOB COMMITTEE REVIEWING THE 1990 DRAFT TREATY IS APPARENTLY HAVING A HEYDAY TRYING TO POKE HOLES IN IT. LUNA TOLD POLOFF THE TREATY HAS "MANY PROBLEMS," INCLUDING THE FAILURE TO DETAIL WHAT CRIMES ARE SUBJECT TO EXTRADITION. HE DOES NOT LIKE THE GENERIC APPROACH, PROVIDING THAT EXTRADITION IS AVAILABLE IF BOTH COUNTRIES PROHIBIT AN ACT CARRYING A DESIGNATED MINIMUM PENALTY. LUNA SAID THAT UNDER THE ONE-YEAR RULE, "EVEN SHOPLIFTERS COULD BE SUBJECT TO EXTRADITION."

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4. LUNA SAID THE GOB HAS CONTRACTED A "TOP-NOTCH LAW FIRM" IN THE U.S. TO REVIEW THE TREATY, AND THEY DO NOT LIKE IT EITHER- POLOFF OBSERVED THAT THE UNSPECIFIED LAW FIRM WAS SIMPLY SAYING WHAT THE GOB APPARENTLY WANTED AND PAID IT TO SAY. WHY ELSE DID THEY HIRE IT, AFTER ALREADY NEGOTIATING AND ACCEPTING TO SIGN A TREATY THREE YEARS AGO? "NO," SAID LUNA, "PRESIDENT PAZ HAS TOLD US THAT HE WANTS TO SIGN A TREATY. WE ARE SIMPLY TRYING TO ENSURE THAT ANY TREATY ACCORDS WITH OUR LAW AND THE LAW OF THE U.S." LUNA AND THE REVIEW COMMITTEE WANT TO START THE PROCESS OVER AGAIN, WITH NEGOTIATIONS IN BOLIVIA AND THE U.S., AND WITH THE GOB REPRESENTED BY U.S. LAWYERS. POLOFF REMINDED LUNA THAT THE STATE DEPARTMENT HAS COMPETENT LAWYERS, AS DOES THE GOB, EXPERTS IN TREATIES, WHO PARTICIPATED IN THE 1990 NEGOTIATION AND DRAFTING.

5. COMMENT: LUNA, AND THE TREATY REVIEW COMMITTEE FORMERLY HEADED BY THE RECENTLY RESIGNED NUMBER TWO AT THE FOREIGN MINISTRY, TITO BOHRT, HAVE APPARENTLY BEEN TAKING THEMSELVES VERY SERIOUSLY. THEIR PICKING AT NITS IN THE 1990 DRAFT TREATY MAY NOT BE INTENTIONALLY OBSTRUCTIONIST, AT LEAST ON THE PART OF LUNA, ALTHOUGH WE SUSPECT THAT THE NON-LAWYER BOHRT, WHO DIRECTED THE REVIEW, WAS LOOKING FOR PROBLEMS, NOT SOLUTIONS. WE WILL TAKE ADVANTAGE OF THE DEPARTURE OF BOHRT TO TRY AND ARRANGE POLITICAL PRESSURE FROM PRESIDENT PAZ TO BREAK THE LOGJAM. END COMMENT.

TRADING ALAIN MESILI FOR **KLAUS BARBIE**

6. ALTHOUGH BOLIVIA AND FRANCE DO NOT HAVE AN EXTRADITION TREATY, LUNA SAID THE GOB WAS SEEKING THE "RETURN IN LIEU OF EXTRADITION" OF ALAIN MESILI (REF B), FRENCH CITIZEN (WITH REPUTED TIES TO FRENCH INTELLIGENCE) WHO WAS INVOLVED IN THE 1990 BOMBING OF THE MARINE HOUSE IN LA PAZ. ONE BOLIVIAN POLICE GUARD WAS KILLED IN THE BOMBING AND ANOTHER CRIPPLED. ON A HISTORICAL NOTE, LUNA SAID THE BOLIVIAN POLICE HAD CAPTURED MESILI SOON AFTER THE INCIDENT, BUT HE WAS ALLOWED TO GO FREE "PROBABLY AFTER INTERVENTION OF THE FRENCH EMBASSY." LUNA SAID THAT PROSECUTOR JOSE NEMTALA HAD ALREADY PREPARED THE DOCUMENTS, AND THEY WOULD BE SENT TO THE BOLIVIAN EMBASSY IN PARIS IN THE NEXT FEW DAYS FOR DELIVERY TO "A FRENCH JUDGE" (BRUGUIERE?).

7. THE BOLIVIANS ARE SEEKING "RECIPROCITY" FOR THEIR NON-TREATY DELIVERY OF **KLAUS BARBIE** TO THE FRENCH IN THE LATE 1980'S. COMMENT: THEY ARE LIKELY TO RUN INTO SIGNIFICANT PROBLEMS ON THEIR THEORY, HOWEVER, BECAUSE BARBIE WAS NOT A BOLIVIAN CITIZEN -- AND MESILI IS FRENCH. END COMMENT.

CORRUPT JUDGES JUDGING CORRUPT JUDGES

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8. POLOFF TOLD LUNA HE HAD HEARD, JUST THAT DAY, THAT THE SUPERIOR COURT IN ORURO WAS RUMORED, ON GOOD AUTHORITY, TO BE PREPARING A VERDICT THAT WOULD STOP THE LEGAL PROCEEDINGS AGAINST THE JUDGES OF THE SECOND CHAMBER OF THE SPECIAL NARCOTICS COURT IN LA PAZ. THE THREE LA PAZ JUDGES WERE CHARGED IN CONNECTION WITH CREDIBLE ALLEGATIONS THAT THEY HAD TAKEN A 40,000 USD PAYOFF IN RETURN FOR A PROMISE OF LENIENCY AGAINST MAJOR TRAFFICKER MECO DOMINIGUEZ. WHEN THE JUDGES DID NOT COME THROUGH WITH ADEQUATE LENIENCY, THE WIFE OF THE TRAFFICKER, WHO HAD PAID THE BRIBE, COMPLAINED.

9. LUNA WAS VERY CONCERNED AT THE NEWS, AND PROMISED TO CALL THE PRESIDENT OF THE ORURO SUPERIOR COURT "IMMEDIATELY" TO ATTEMPT TO DERAILED THE DEAL. LUNA HAS A PERSONAL INTEREST, BECAUSE THE JUDGES OF THE OTHER CHAMBER, THE FIRST CHAMBER OF THE LA PAZ SPECIAL NARCOTICS COURT, HAVE ALSO BEEN CHARGED WITH CORRUPTION, AT LUNA'S INSTANCE, IN CONNECTION WITH THE "DIRTY DANCING WITH THE NARCO-JUDGES (REF A)" AFFAIR OF LAST CHRISTMAS. IF THE SECOND CHAMBER GETS OFF, IT WILL BE TAKEN AS A PRECEDENT FOR THE CASE AGAINST THE FIRST CHAMBER. THE POINT APPEARS TO BE FOR THE CORRUPT JUDGES TO STRETCH THE SYSTEM TO SEE WHAT THE PUBLIC, THE GOB, AND THE USG WILL TOLERATE. POLOFF UNDERSCORED TO LUNA THAT THE TOLERANCE OF THE USG FOR THIS KIND OF THING WAS ZERO.

THE SHORT PENANCE OF THE ARREPENTIDOS

10. AFTER A DISCUSSION OF SEVERAL DIFFICULTIES, SUCH AS EXTRADITION, IN THE BILATERAL RELATIONSHIP, AND IN RESPONSE TO URGING FROM POLOFF FOR THE GOB TO COME UP WITH CONCRETE ACTIONS TO SHOW THEIR GOOD FAITH IN THE JUDICIAL ASPECTS OF THE NARCO-WAR, LUNA SAID THAT HE EXPECTED "BY THE END OF THE WEEK" SOME GOOD NEWS IN CONNECTION WITH TWO OF THE CASES PENDING AGAINST MAJOR TRAFFICKERS, THE "ARREPENTIDOS," WHO HAD SURRENDERED TO THE GOB IN RETURN FOR A PROMISE THEY WOULD NOT BE EXTRADITED TO THE UNITED STATES. LUNA HAS MADE "SEVERAL" TRIPS TO MEET INFORMALLY WITH THE SUPREME COURT IN SUCRE IN REGARD TO THESE CASES, AND SAID HE HELPED DRAFT WHAT HE BELIEVES WILL BE FAVORABLE DECISIONS

-- I.E., EXTENDING THE VERY LIGHT SENTENCES --
IN THE APPEALS OF TWO OF THE CASES.

11. POLOFF POINTED OUT TO LUNA THAT ATTORNEY GENERAL ANGEL BALDEVIESO HAD ACTUALLY RECOMMENDED IN AN OFFICIAL MOTION TO THE SUPREME COURT DECREASING THE SENTENCE OF ONE OF THE ARREPENTIDOS, WINSTON RODRIGUEZ. LUNA WAS INCREDULOUS, BUT POLOFF ASSURED HIM THE EMBASSY HAS A

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COPY OF THE MOTION. THE AMBASSADOR SPOKE WITH THE ATTORNEY GENERAL IN CONNECTION WITH THIS MATTER MARCH 3, STRONGLY URGING THAT THE A.G. AMEND HIS PRIOR MOTION.

TRANSFER OF JHONNY (SIC) PERALTA

12. LUNA SAID HE HAD OBTAINED JUDICIAL AUTHORITY TO TRANSFER JHONNY (SIC) PERALTA, THE ASSASSIN OF THE TWO AMERICAN MORMON MISSIONARIES IN 1989, FROM INSECURE SAN PEDRO PRISON TO MORE-SECURE CHONCHOCORO PRISON. LUNA WAS RELUCTANT TO MAKE THE TRANSFER, HOWEVER, BECAUSE HE DID NOT WANT TO CONCENTRATE ALL OF THE TERRORISTS IN CHONCHOCORO. POLOFF STRONGLY URGED HIM TO TRANSFER PERALTA, ASSURING HIM THAT CHONCHOCORO WAS BY FAR THE MOST SECURE PRISON IN THE COUNTRY. ALTHOUGH LUNA IS IN CHARGE OF BOLIVIAN PRISONS, HE HAS NOT VISITED MOST OF THEM, AND WAS SURPRISED TO LEARN ABOUT CONDITIONS IN THE PRISONS AS DESCRIBED TO HIM BY POLOFF.

13. LUNA HAD THE IMPRESSION, FOR INSTANCE, THAT THE NARCO SECTION OF SAN PEDRO PRISON WAS THE MOST SECURE. POLOFF OFFERED TO FURNISH HIM AN (EXPURGATED) COPY OF THE EMBASSY REPORT ON THE PRISONS (REF C).

NEW SUPREME COURT JUSTICES

14. ON THE WHOLE, LUNA WAS UPBEAT ABOUT THE NEWLY NAMED SUPREME COURT JUDGES. HE TOOK EXCEPTION TO ONLY TWO OF THEM: HASSENTEUFEL FROM CHUQUISACA, WHOM HE DESCRIBED AS A MIR FLUNKIE AND NOT A REAL LAWYER, AND AZAD FROM PANDO, AN ADN OPERATIVE.

BOWERS

ADMIN
END OF MESSAGE

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