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UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: SHARON E AHMAD  
DATE/CASE ID: 26 OCT 2004 200303827

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ALL POSTS FOR PAO, USSOCOM FOR POLAD

E.O. 12958: N/A  
TAGS: OPRC, KPAO  
SUBJECT: WHA GUIDANCE, JANUARY 16, 2002

SUMMARY OF CONTENTS:

1. WHA PRESS GUIDANCE, JAN 16 (MEXICO, VENEZUELA)
  2. L CONTINGENCY PRESS GUIDANCE, JAN 16 (CANADA/NAFTA)
  2. S/WCI PRESS GUIDANCE, JAN 15 (GUANTANAMO/DETAINEES)
  3. PRM CONTINGENCY PRESS GUIDANCE, JAN 15  
(GUANTANAMO/DETAINEES)
- END SUMMARY.

- 1. WHA PRESS GUIDANCE, JANUARY 16, 2002  
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-- MEXICO:    ARREST OF CHRISTIAN LONGO --

QUESTION: FUGITIVE CHRISTIAN LONGO, A U.S. CITIZEN ACCUSED OF MURDERING HIS FAMILY, WAS DETAINED BY MEXICAN AUTHORITIES ON JANUARY 13 AND TURNED OVER TO U.S. AUTHORITIES ON JANUARY 14. DID THE STATE DEPARTMENT PLAY A ROLE? HOW WAS THE HAND-OVER TO U.S. AUTHORITIES ARRANGED SO QUICKLY?

A: MR. LONGO WAS DEPORTED BY MEXICO. AS THIS DID NOT INVOLVE A FORMAL EXTRADITION, THE STATE DEPARTMENT PLAYED NO ROLE IN LONGO'S HAND-OVER TO U.S. AUTHORITIES.

BECAUSE THIS IS A PENDING LAW ENFORCEMENT MATTER, WE WOULD REFER FURTHER INQUIRIES TO THE DEPARTMENT OF JUSTICE.

IF ASKED:

QUESTION: DID THE STATE DEPARTMENT REQUEST LONGO'S EXTRADITION?

A: THE <<UNITED>> <<STATES>> DID NOT FORMALLY REQUEST LONGO'S EXTRADITION UNDER THE U.S.-MEXICO EXTRADITION TREATY.

-- VENEZUELA:    STATUS OF U.S.-VENEZUELA RELATIONSHIP --

QUESTION: WHAT IS THE STATUS OF THE U.S. RELATIONSHIP WITH VENEZUELA? IS THAT RELATIONSHIP DETERIORATING?

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ANSWER: HISTORICALLY, THE U.S. AND VENEZUELA HAVE ENJOYED A  
MUTUALLY BENEFICIAL AND POSITIVE RELATIONSHIP. THE U.S. AND  
VENEZUELA HAVE MANY INTERESTS THAT BIND US, FOR EXAMPLE, OUR  
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ENERGY AND ECONOMIC RELATIONSHIPS, AND OUR COOPERATION TO STEM  
THE FLOW OF DRUGS.

THE WAR ON TERRORISM, THE STRENGTH OF CIVIL SOCIETY, FREEDOM  
OF THE PRESS AND DEMOCRATIC INSTITUTIONS ARE ALSO IMPORTANT  
MATTERS IN OUR DIALOGUE WITH COUNTRIES IN THE HEMISPHERE. WE  
HAVE HAD SOME DIFFERENCES WITH VENEZUELA RECENTLY IN THESE  
AREAS.

AS WE DO THROUGHOUT THIS HEMISPHERE AND ACROSS THE GLOBE, WE  
WILL CONTINUE SPEAKING OUT ON MATTERS OF FUNDAMENTAL  
IMPORTANCE TO THE U.S.  
WE CONTINUE TO LOOK FOR WAYS TO KEEP OUR HISTORICALLY GOOD  
RELATIONSHIP ON TRACK.

OUR INTEREST IS TO WORK WITH VENEZUELA ON THE HEMISPHERIC  
AGENDA TO PROMOTE DEMOCRACY, PROMOTE REGIONAL INTEGRATION,  
AND COMBAT TERRORISM.

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2. L CONTINGENCY PRESS GUIDANCE, JANUARY 16, 2002  
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-- CANADIAN CORPORATION CHALLENGES RULES AND  
ALLEGED POLICIES OF <<UNITED>> <<STATES>> REGARDING  
FOOD PRODUCTS CONTAINING HEMP --

Q: HAS A CANADIAN COMPANY FILED A CLAIM AGAINST THE <<UNITED>>  
<<STATES>> REGARDING THE <<UNITED>> <<STATES>>' RULES AND POLICIES  
PERTAINING TO HEMP FOOD PRODUCTS?

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A: ON JANUARY 14, 2002, KENEX, A CANADIAN CORPORATION, FILED  
A NOTICE OF INTENT TO SUBMIT A CLAIM TO ARBITRATION UNDER  
NAFTA CHAPTER ELEVEN.

Q: WHAT IS THE DIFFERENCE BETWEEN A NOTICE OF INTENT AND  
FILING A CLAIM?

A: THE NAFTA PROVIDES THAT BEFORE AN INVESTOR MAY FILE A  
CLAIM FOR ARBITRATION UNDER THE INVESTOR-STATE DISPUTE

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RESOLUTION PROVISIONS OF THE NAFTA, IT MUST FIRST SUBMIT A NOTICE OF INTENT TO FILE SUCH A CLAIM. THE INVESTOR MUST WAIT AT LEAST 90 DAYS AFTER FILING ITS NOTICE OF INTENT BEFORE IT MAY FILE A CLAIM AGAINST THE <<UNITED>> <<STATES>>.

Q: WHY MUST THE INVESTOR WAIT 90 DAYS TO FILE ITS CLAIM? WHAT WILL HAPPEN BETWEEN NOW AND 90 DAYS FROM NOW?

A: THE NAFTA PROVIDES THAT THE DISPUTING PARTIES SHOULD FIRST ATTEMPT TO SETTLE A CLAIM THROUGH CONSULTATION OR NEGOTIATION. WHEN INVESTORS HAVE REQUESTED TO MEET WITH U.S. GOVERNMENT OFFICIALS BEFORE FILING A NOTICE OF ARBITRATION TO DISCUSS THEIR CASE, THE STATE DEPARTMENT HAS HELD SUCH MEETINGS. TO DATE, THE <<UNITED>> <<STATES>> HAS NOT RECEIVED ANY REQUEST BY KENEX FOR A MEETING.

Q: WHAT NAFTA OBLIGATIONS DOES KENEX CONTEND HAVE BEEN BREACHED?

A: KENEX CLAIMS THAT THE <<UNITED>> <<STATES>> HAS BREACHED THE FOLLOWING PROVISIONS OF THE NAFTA: (I) ARTICLE 1102

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(NATIONAL <<TREATMENT>>); (II) ARTICLE 1103 (MOST FAVORED NATION <<TREATMENT>>); (IIII) ARTICLE 1104 (THE BETTER OF NATIONAL <<TREATMENT>> AND MOST FAVORED NATION <<TREATMENT>>); AND (IV) ARTICLE 1105 (MINIMUM STANDARD OF <<TREATMENT>>).

Q: DOES THE <<UNITED>> <<STATES>> THINK THAT IT WILL WIN THIS CASE?

A: KENEX HAS NOT YET FILED A CLAIM FOR ARBITRATION. WE ARE NOT IN A POSITION AT THIS TIME TO COMMENT ON WHETHER THERE IS ANY MERIT TO THE CLAIMS THAT KENEX HAS NOTIFIED US IT INTENDS TO FILE.

Q: TO DATE, HOW MANY CLAIMS HAVE BEEN FILED AGAINST THE <<UNITED>> <<STATES>> UNDER NAFTA CHAPTER ELEVEN (THE INVESTOR-STATE DISPUTE SETTLEMENT PROVISION).

A. THERE ARE FOUR PENDING CASES AGAINST THE <<UNITED>> <<STATES>>. NO DECISION ON THE MERITS HAS BEEN RENDERED IN ANY OF THOSE CASES. IN ADDITION TO THE FOUR CASES, THE <<UNITED>> <<STATES>> HAS RECEIVED TWO NOTICES OF INTENT, INCLUDING THIS NOTICE FROM KENEX.

Q: IF KENEX FILES A CLAIM AGAINST THE <<UNITED>> <<STATES>> IN 90 DAYS OR THEREAFTER, WHO WILL REPRESENT THE <<UNITED>> <<STATES>>?

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A: THE STATE DEPARTMENT WILL. THE STATE DEPARTMENT IS THE LEAD AGENCY THAT REPRESENTS THE <<UNITED>> <<STATES>> IN ALL BUT ONE OF THE NAFTA INVESTOR-STATE ARBITRATIONS. THE STATE DEPARTMENT WORKS CLOSELY WITH OTHER INTERESTED GOVERNMENT AGENCIES IN THESE ARBITRATIONS.

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Q: IF KENEX FILES A CLAIM AGAINST THE <<UNITED>> <<STATES>> IN 90 DAYS OR THEREAFTER, WHO WILL DECIDE THE DISPUTE?

A: IN NAFTA INVESTOR-STATE ARBITRATIONS, A DISPUTE IS DECIDED BY A PANEL OF THREE ARBITRATORS SELECTED THROUGH THE PROCEDURES SET FORTH IN THE NAFTA.

Q: HOW MUCH IN DAMAGES IS KENEX SEEKING?

A: KENEX CLAIMS US \$20 MILLION IN DAMAGES, PLUS COSTS AND EXPENSES.

Q: WILL THE NOTICE OF INTENT BE MADE AVAILABLE TO THE PUBLIC?

A: NOTICES OF ARBITRATION FILED AGAINST THE <<UNITED>> <<STATES>> ARE MAINTAINED IN A PUBLIC REGISTER WITH THE NAFTA SECRETARIAT, U.S. SECTION, WHICH IS LOCATED IN THE U.S. DEPARTMENT OF COMMERCE AND ARE ALSO POSTED ON THE STATE DEPARTMENT'S WEBSITE. NOTICES OF INTENT AGAINST THE <<UNITED>> <<STATES>> ARE NOT FILED WITH THE NAFTA SECRETARIAT BUT ARE AVAILABLE UPON WRITTEN REQUEST UNDER ORDINARY DOCUMENT DISCLOSURE LAWS.

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3. S/WCI PRESS GUIDANCE, JANUARY 15, 2002  
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-- <<TREATMENT>> OF <<DETAINEES>> IN GUANTANAMO --

Q: PLEASE REBUT ALLEGATIONS ABOUT THE INHUMANE <<TREATMENT>> OF  
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THE PRISONERS IN CUBA. PROVIDE AS MUCH DETAIL AS POSSIBLE.

A: ALL <<DETAINEES>> IN THE CONTROL OF THE <<UNITED>> <<STATES>> ARE BEING TREATED HUMANELY.

EACH DAY THE <<DETAINEES>> ARE GIVEN THREE CULTURALLY APPROPRIATE MEALS.

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THEY HAVE DAILY OPPORTUNITIES TO SHOWER, EXERCISE AND RECEIVE MEDICAL ATTENTION.

WE EXPECT REPRESENTATIVES FROM THE INTERNATIONAL COMMITTEE FOR THE RED CROSS TO VISIT THEM LATER THIS WEEK.

REFER YOU TO THE DEPARTMENT OF DEFENSE FOR FURTHER INFORMATION.

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4. PRM CONTINGENCY PRESS GUIDANCE, JANUARY 15, 2001  
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-- THE INTERNATIONAL COMMITTEE OF THE RED CROSS VISIT TO GUANTANAMO NAVAL BASE --

Q: IS THE INTERNATIONAL COMMITTEE OF THE RED CROSS VISITING TALIBAN AND AL QAEDA <<DETAINÉES>> AT GUANTANAMO BAY?

A: YES, ON THURSDAY, JANUARY 17, 2002, A DELEGATION FROM THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC) WILL VISIT GUANTANAMO NAVAL BASE TO REVIEW <<TREATMENT>> OF INDIVIDUALS  
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DETAINED. WE WOULD NOTE THAT THE U.S. HAS WORKED CLOSELY WITH FIRST THE UNITED FRONT AND NOW THE AFGHAN INTERIM AUTHORITY TO PROVIDE THE ICRC ACCESS TO TALIBAN AND AL QAEDA <<DETAINÉES>> IN <<AFGHANISTAN>>.

Q: WILL YOU OR THE INTERNATIONAL COMMITTEE OF THE RED CROSS SHARE THEIR FINDINGS WITH THE PUBLIC?

A: THE INTERNATIONAL COMMITTEE OF THE RED CROSS ONLY MAKES AVAILABLE TO THE PUBLIC THE NUMBER OF PLACES OF DETENTIONS VISITED, THE NAMES OF <<DETAINÉES>>, THE DATES OF VISITS AND THE NUMBER OF <<DETAINÉES>> SEEN.

Q: DOES THE U.S. GOVERNMENT FUND THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

A: WE ARE THE LARGEST DONOR TO THE INTERNATIONAL COMMITTEE OF THE RED CROSS.  
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