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RELEASED IN PART
B1, 1.5(D)

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EB-00 FBIE-00 H-01 TEDE-00 INR-00 IO-00 L-01
ADS-00 M-00 NSAE-00 NSCE-00 OIC-02 OMB-01 OPIC-01
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O 152220Z AUG 97
FM AMEMBASSY LIMA
TO SECSTATE WASHDC IMMEDIATE 9138
INFO AMEMBASSY QUITO PRIORITY
USCINCSO QUARRY HEIGHTS PM
AMEMBASSY CARACAS
USIA WASHDC 3739
AMEMBASSY LA PAZ
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AMEMBASSY BUENOS AIRES

C O N F I D E N T I A L SECTION 01 OF 03 LIMA 006981

SOUTHCOM ALSO FOR POLAD

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SUBJECT: UPDATE ON CHANNEL TWO OWNER'S LEGAL WOES

REF: A) LIMA 6032, B) LIMA 4695

1. (U) CLASSIFIED BY AMBASSADOR DENNIS JETT, EMBASSY LIMA, FOR
REASON 1.5 (D).

2. (C) SUMMARY:

[REDACTED]

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DEPT OF STATE APPEALS REVIEW PANEL (ARP)

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FOIA/PA	Mandatory Review
() Release	() Declassify
() Excise	() Declassify in Part
() Deny	() Class. Ret/Renew
Exemptions	
ARP Action Cert	Date 11/22/02

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_____ WILL RELENT IN THE CONTROVERSIAL GOP CAMPAIGN TO PREVENT T.V. CHANNEL TWO'S MAJORITY SHAREHOLDER FROM REGAINING CONTROL OF "FRECUENCIA LATINA." A PERUVIAN JUDGE HAS UPHOLD THE ADMINISTRATIVE DECREE STRIPPING BARUCH IVCHER OF HIS PERUVIAN CITIZENSHIP. THE SAME PROVISIONAL JUDGE HAD EARLIER GRANTED THE SECOND LARGEST SHAREHOLDERS PROVISIONAL ADMINISTRATIVE CONTROL OF CHANNEL TWO; BOTH DECISIONS ARE BEING APPEALED. ALTHOUGH "FRECUENCIA LATINA" EMPLOYEES REMAIN LOYAL TO IVCHER, HE IS UNLIKELY TO RETURN TO PERU UNTIL HE RECEIVES ASSURANCES THAT THE BENCH WARRANT AGAINST HIM IN YET ANOTHER CASE WILL NOT RESULT IN HIS ARREST. THE IVCHER CASE CONTINUES TO GENERATE CONSIDERABLE, ALBEIT SOMEWHAT DIMINISHED, PRESS COVERAGE. WHEN ASKED BY REPORTERS AUGUST 15 ABOUT THE MOST RECENT JUDGE'S DECISION, AMBASSADOR JETT NOTED THAT SINCE IT HAD NOT REVERSED THE ADMINISTRATIVE ACTION STRIPPING IVCHER OF HIS CITIZENSHIP, USG AND CONGRESSIONAL CONCERN AND INTEREST IN THE CASE CONTINUED UNABATED. END SUMMARY.

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THROUGH THE LEGAL JUNGLE

3. (U) LEGAL PROCEEDINGS GROWING OUT OF THE GOP'S JULY 13 CANCELLATION OF CHANNEL TWO MAJORITY OWNER BARUCH IVCHER'S PERUVIAN
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CITIZENSHIP CONTINUE TO PROLIFERATE. ON AUGUST 14, JUDGE PERCY ESCOBAR DENIED AS "UNFOUNDED" AN APPEAL OF THE PERUVIAN IMMIGRATION SERVICE'S JULY 13 ADMINISTRATIVE DECISION TO CANCEL BARUCH IVCHER'S PERUVIAN CITIZENSHIP. IVCHER'S ATTORNEY WILL NOW APPEAL THE DECISION TO A HIGHER COURT.

4. (C) IVCHER APPEALED THE ADMINISTRATIVE DECREE STRIPPING HIM OF HIS PERUVIAN CITIZENSHIP ON CONSTITUTIONAL GROUNDS (RESOLUCION SUPREMA) ON THE SAME DAY THE SECOND LARGEST SHAREHOLDERS FILED A WRIT (AMPARO) REQUESTING ADMINISTRATIVE CONTROL OF THE STATION WITH THE SAME JUDGE.

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_____ JUDGE ESCOBAR'S RUSH TO DECISION ON THE LATTER CASE AND SUSPENSION OF INTEREST IN THE FORMER IS AN INDICATION OF THE POLITICAL SENSITIVITY OF THE CASE.

5. (U) ON AUGUST 4, FIRST INSTANCE JUDGE PERCY ESCOBAR GRANTED PROVISIONAL ADMINISTRATIVE CONTROL OF CHANNEL TWO TO SAMUEL AND MENDEL WINTER, BROTHERS WHO ARE THE SECOND LARGEST SHAREHOLDERS. (NOTE: ESCOBAR WAS VERY RECENTLY APPOINTED A PROVISIONAL JUDGE IN

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LIMA'S IMPORTANT COURT OF CIVIL LAW. PRIOR TO THAT APPOINTMENT, HE WAS A COURT CLERK IN A CRIMINAL COURT. END NOTE.) JUDGE ESCOBAR ALSO SUSPENDED THE RIGHTS OF MAJORITY OWNER BARUCH IVCHER TO TRANSFER HIS SHARES IN OR TO FUNCTION AS PRESIDENT OF THE BOARD OF CHANNEL TWO ("FRECUENCIA LATINA"). THEY HAD SOUGHT THIS CONTROL ON THE GROUNDS THAT THEIR INVESTMENT WAS AT RISK AS LONG AS IVCHER'S NATIONALITY WAS IN QUESTION, THEREBY PREVENTING HIM FROM RUNNING THE STATION. AT THE SAME TIME, IVCHER'S LAWYERS ARE APPEALING THIS DECISION. IF IVCHER'S APPEAL IS UNSUCCESSFUL, THE WINTER BROTHERS WOULD BE ABLE TO REPLACE THE THREE DIRECTORS IVCHER CHOSE FOR THE FIVE-MEMBER BOARD. FOR HIS PART, THE SHAREHOLDER OF ABOUT ONE PERCENT OF THE CHANNEL'S SHARES, REMIGIO MORALES BERMUDEZ, HAS

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FILED A WRIT REQUESTING THAT A WHOLE NEW BOARD BE CHOSEN.

6. (U) LATER, PRESS REPORTS CLAIMED THAT THE WINTER BROTHERS WERE PREPARED TO SELL CHANNEL TWO TO THE WOLFENSON FAMILY, TO WHOM THE WINTERS ARE RELATED BY MARRIAGE. THE WOLFENSONS ARE PROPRIETORS OF THE DAILY "EL CHINO," A STRONGLY PRO-GOVERNMENT TABLOID.

7. (C) USIS OFFICERS VISITING CHANNEL TWO HEADQUARTERS ON AUGUST 6 FOUND THE STATION PERSONNEL IN AN ALL-OUT BUNKER MENTALITY, PREPARED TO DEFEND IVCHER'S OWNERSHIP AGAINST THE LEGAL CHALLENGES OF THE OTHER SHAREHOLDERS. THE STATION MANAGERS CLAIMED THAT THE CHANNEL IS WELL-RUN AND THAT BOTH RATINGS AND ADVERTISEMENT REVENUES ARE UP OVER THE PAST THREE MONTHS (REFUTING THE WINTERS' CLAIM). THE STATION, WHICH BOASTS THE BEST BROADCAST FACILITIES IN PERU, CONTINUES TO OPERATE ITS FULL RANGE OF NEWS AND ENTERTAINMENT PROGRAMMING -- AND TO TAKE EDITORIAL SWINGS AT THE FUJIMORI GOVERNMENT AND THE WINTER BROTHERS FOR ALL THE PROBLEMS PLAGUING IVCHER.

BENCH WARRANT AWAITS IVCHER'S RETURN

8. (U) IN ADDITION, IVCHER'S TESTIMONY IS REQUIRED IN THE CASE HE HIMSELF BROUGHT AGAINST TWO POLICE COLONELS IVCHER ACCUSED OF

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	STR-00	TRSE-00	T-00	PMB-00	DSCC-00	PRM-10	PRME-01
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FM AMEMBASSY LIMA
TO SECSTATE WASHDC IMMEDIATE 9139
INFO AMEMBASSY QUITO PRIORITY
USCINCSO QUARRY HEIGHTS PM
AMEMBASSY CARACAS
USIA WASHDC 3740
AMEMBASSY LA PAZ
AMEMBASSY BOGOTA
AMEMBASSY BRASILIA
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SUBJECT: UPDATE ON CHANNEL TWO OWNER'S LEGAL WOES

ATTEMPTING TO BLACKMAIL HIM LAST APRIL. DESPITE A BENCH WARRANT AGAINST HIM, IVCHER DID NOT SHOW UP FOR THE HEARINGS SCHEDULED FOR JULY 18 AND AUGUST 8 AND IS UNLIKELY TO RETURN TO PERU UNTIL HE RECEIVES GUARANTEES THAT HE WILL NOT BE ARRESTED. IN ORDER TO COMPLY WITH THE LEGAL REQUIREMENTS IN THE BLACKMAIL CASE, HOWEVER, IVCHER HAS APPEALED TO THE PERUVIAN CONSULATE IN MIAMI TO ALLOW HIM TO SUBMIT TESTIMONY THROUGH THEM FROM FLORIDA.

9. (U) IN A STATEMENT MADE TO THE PRESS RECENTLY IN MIAMI, IVCHER INDICATED HIS WILLINGNESS TO EXHAUST ALL LEGAL REMEDIES IN PERU BUT

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DID NOT DISCARD THE POSSIBILITY OF EVENTUALLY PUTTING HIS CASE BEFORE SOME INTERNATIONAL JUDICIAL BODY IF PERUVIAN JUSTICE FAILED TO RESTORE THE RIGHTS ACCRUING TO HIS MAJORITY OWNERSHIP OF CHANNEL TWO. IVCHER ALSO NOTED THAT HE HAD INFORMED THE MIAMI POLICE OF HIS FEARS FOR HIS PERSONAL SECURITY. IVCHER SAID HIS ATTORNEYS HAD REQUESTED THAT PERU'S SUPREME COURT ANALYZE THE SITUATION OF JUDGE ESCOBAR, WHOSE APPOINTMENT IS PROVISIONAL.

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10. (C) IN A JULY 31 MEETING,

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TO RESOLVE THE IVCHER CITIZENSHIP QUESTION "FAVORABLY," BUT WAS NOT CONFIDENT THE PRESIDENT WOULD DO SO. THE IVCHER CASE WAS THE ONLY ONE OF THE PRESIDENT'S RECENT POLITICAL HEADACHES WHICH COULD STILL BE "REVERSED," FOR EXAMPLE BY THE INTERIOR MINISTER'S RESCINDING THE ADMINISTRATIVE DECREE WHICH CANCELLED IVCHER'S NATURALIZATION. IN

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CONTRAST, NEITHER THE DISMISSAL OF THREE JUDGES FROM THE CONSTITUTIONAL TRIBUNAL NOR THE LA ROSA TORTURE CASE COULD BE UNDONE.

11. (C) HE DID NOT BELIEVE THE PRESIDENT HAD PRIOR KNOWLEDGE OF THE IMMIGRATION CHIEF'S ACTION AGAINST IVCHER. THE CANCELLATION OF IVCHER'S NATURALIZATION MAY HAVE ITS ROOTS IN A PERSONALITY CLASH BETWEEN IVCHER, WHOSE CHANNEL TWO EDITORIAL SLANT HAD BEEN STRONGLY PRO-GOVERNMENT UNTIL 1996, AND DE FACTO INTELLIGENCE CHIEF VLADIMIRO MONTESINOS. WHATEVER THE BACKGROUND OF THE IVCHER DEBACLE, FUJIMORI WAS POORLY SERVED BY ADVISORS WHO DID NOT UNDERSTAND THAT THE RAMIFICATIONS BEYOND PERU OF STRIPPING IVCHER OF HIS PERUVIAN CITIZENSHIP WOULD INCLUDE THE CONCERNS OF U.S. AND INTERNATIONAL PRESS ASSOCIATIONS. POLCOUNS NOTED THE CONTINUING USG INTEREST IN THE CASE AND URGED TO REMIND FUJIMORI THAT IGNORING SENATOR HELMS' AND REPRESENTATIVE GILMAN'S JUNE 17 LETTER ABOUT IVCHER WOULD ONLY EXACERBATE THE PERCEPTION IN THE UNITED STATES OF A LACK OF DEMOCRACY IN PERU.

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12. (C)

IVCHER.

WILL NOT RETURN TO LIMA
UNTIL THERE ARE GUARANTEES THAT HE WILL NOT BE ARRESTED. AT THE

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MOMENT, THERE IS AN "ORDEN DE CAPTURA" (AKIN TO A BENCH WARRANT) TO COMPEL HIM TO TESTIFY BEFORE A JUDGE INVESTIGATING IVCHER'S OWN ACCUSATION OF EXTORTION AGAINST TWO EX-POLICE OFFICIALS. THE WARRANT COULD READILY BE TURNED INTO A DETENTION ORDER BY EITHER A CIVILIAN OR A MILITARY JUDGE, OR EITHER COURT COULD BRING NEW CHARGES AGAINST IVCHER.

_____/ FUJIMORI CANNOT DIRECTLY PROVIDE ASSURANCES THAT IVCHER WILL NOT BE DETAINED -- THEY MUST COME FROM THE COURTS -- BUT CLEARLY PRESIDENTIAL ACTION

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ON THE CITIZENSHIP QUESTION WOULD SEND THE CORRECT MESSAGE TO THE COURTS.

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COMMENT

14. (C) AT THE MOMENT, THE GOP SEEMS TO BE IN A "LET IT LIE"

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FM AMEMBASSY LIMA

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INFO AMEMBASSY QUITO PRIORITY

USCINCSO QUARRY HEIGHTS PM

AMEMBASSY CARACAS

USIA WASHDC 3741

AMEMBASSY LA PAZ

AMEMBASSY BOGOTA

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PHASE, HOPING THE IVCHER SCANDAL WILL FADE AWAY OR BE OVERTAKEN BY SOME OTHER CRISIS. THUS FAR, THIS HAS NOT HAPPENED, THANKS IN PART TO EXPRESSIONS OF CONCERN VOICED FROM INDIVIDUALS AND ORGANIZATIONS OUTSIDE OF PERU. **WE HAVE NO CONFIDENCE THAT THE JUDICIARY WILL**

DECIDE ANY OF THE CASES AFFECTING CHANNEL TWO OR IVCHER'S CITIZENSHIP IN HIS FAVOR, SO IT REMAINS FUJIMORI'S DECISION WHETHER OR NOT TO BACK DOWN. THUS FAR, HE HAS NOT GIVEN ANY INDICATION OF WILLINGNESS TO REVERSE THIS BLUNDER.

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15. (C) WHILE THE PUBLIC OPINION POLLS ARE NOT CONSISTENT, PRESIDENT FUJIMORI'S APPROVAL RATING BOUNCED BACK IN LATE JULY AFTER HAVING BOTTOMED OUT EARLIER IN THE MONTH. IF FUJIMORI REACHES THE CONCLUSION (WHICH HE PROBABLY HAS) THAT HE CAN GO FROM

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18 TO 29 PER CENT WITH A FEW POPULIST MEASURES SUCH AS THOSE HE ANNOUNCED DURING HIS JULY 28 "STATE OF THE NATION" ADDRESS, WE CAN EXPECT MORE OF THE SAME ON ECONOMIC POLICY. IF HE HAS ALSO CALCULATED THAT NEGATIVE PUBLIC REACTION TO HIS CONFRONTATIONAL APPROACH TOWARD POLITICAL OPPONENTS IS, IN FACT, FAIRLY SHALLOW, WE CAN REASONABLY EXPECT THAT FUJIMORI WILL ALSO CONTINUE TO MAKE EXAMPLES OF HIS FOES AS HE APPEARS TO BE DOING IN THE IVCHER CASE.

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