

n/a RELEASED IN PART  
Case Number: 200102877  
B4, B1, 1.5(B), 1.5(D), B6  
PTQ1979

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ACTION WHA-00

INFO	LOG-00	NP-00	AID-00	CEA-01	CIAE-00	SMEC-00	CTME-00
	INL-00	DINT-00	DODE-00	DOEE-00	SRPP-00	DS-00	EB-00
	EUR-00	EXIM-01	E-00	VC-00	FRB-00	H-01	TEDE-00
	INR-00	ITC-01	L-00	VCE-00	AC-01	NSAE-00	NSCE-00
	OES-01	OIG-03	OMB-01	OPIC-01	PA-00	PC-01	PM-00
	PRS-00	ACE-00	P-00	SP-00	SSO-00	STR-00	USIE-00
	PMB-00	DSCC-00	DRL-02	G-00	NEAT-00	SAS-00	SWCI-00

/014W

-----C10D4C 051629Z /38

R 051625Z FEB 01  
FM AMEMBASSY LIMA  
TO SECSTATE WASHDC 8573  
INFO DEPT OF TREASURY WASHINGTON DC  
USDOC WASHDC  
AMEMBASSY BOGOTA  
AMEMBASSY CARACAS  
AMEMBASSY LA PAZ  
AMEMBASSY QUITO  
AMEMBASSY SANTIAGO  
AMEMBASSY SANTO DOMINGO  
AMEMBASSY PARIS

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STATE FOR WHA/AND, WHA/EPSC, EB/OIA, EB/CBA, EB/ESC  
TREASURY FOR OASIA  
COMMERCE FOR MAC/ITA/SSMITH  
DEPT PASS INT/USGS/RESTON FOR AGURMENDI  
DEPT PASS OPIC FOR J BRACHE

E.O. 12958: DECL: 02/01/11  
TAGS: BINV, EMIN, PGOV, PE  
SUBJECT: USG, U.S. INVESTOR IN PERU BRIEFLY CAUGHT UP  
IN MONTESINOS ALLEGATIONS

REF (NOTAL): A) LIMA 0529 B) 98 LIMA 3707

CLASSIFIED BY AMBASSADOR JOHN R. HAMILTON, REASON

n/a

[REDACTED]  
n/a  
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1.5(D).

1. (C) SUMMARY. THE USG AND U.S. FIRM [REDACTED] WERE PULLED INTO THE GROWING WEB OF CORRUPTION ALLEGATIONS RELATED TO PERU'S FORMER DE FACTO INTELLIGENCE CHIEF VLADIMIRO MONTESINOS WITH THE RELEASE OF YET ANOTHER OF HIS VIDEOS JANUARY 24 (REF A). IN THE 1998 VIDEO, MONTESINOS PRESSURES A SUPREME COURT JUSTICE TO VOTE FOR [REDACTED] IN A DISPUTE WITH FRENCH PARASTATAL BRGM, CLAIMING USG SUPPORT FOR THE PERU-ECUADOR PEACE PROCESS IS AT STAKE. THE JUDGE, WHO DID CAST THE DECIDING VOTE IN FAVOR OF [REDACTED] (REF B), HAS PUBLICLY DENIED HE DID SO AS A RESULT OF PRESSURE FROM MONTESINOS. THE AMBASSADOR MADE CLEAR ON JANUARY 25 THAT USG REPRESENTATIONS TO THE GOP ON THE CASE HAD BEEN AIMED ONLY AT ENSURING A FAIR TRIAL  
CONFIDENTIAL

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AND THAT NO LINK HAD BEEN MADE WITH SUPPORT FOR THE PERU-ECUADOR PEACE PROCESS. THE FRENCH AMBASSADOR TO PERU HAS BACKED OFF INITIAL SUGGESTIONS THAT THE VIDEO MIGHT LEAD TO LEGAL ACTION, BUT A [REDACTED] MADE PAYOFFS TO WIN THE CASE. [REDACTED] EXECUTIVES HAVE PRIVATELY TOLD US THAT THEY AND THEIR PERUVIAN PARTNERS AND LAWYERS COMPLIED FULLY WITH THE FOREIGN CORRUPT PRACTICES ACT. AS A RESULT OF OUR RAPID RESPONSE TO THE ALLEGATIONS AND A DAILY DIET OF OTHER NEWS RELATED TO ELECTIONS AND MONTESINOS CORRUPTION, INTEREST IN THE STORY HAS WANED. A FINAL AGREEMENT AMONG ALL THE PARTIES TO THE DISPUTE SIGNED IN DECEMBER 2000 APPEARS TO RULE OUT LEGAL ACTION. MOREOVER, THE ALLEGATIONS AGAINST THE U.S. FIRM AND THE JUDGE LACK CREDIBILITY, AND THE OUTCOME OF A RELATED DISPUTE SUPPORTS OUR BELIEF THAT THE CASE WAS DECIDED ON ITS MERITS. END SUMMARY.

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BACKGROUND ON NEWMONT'S DISPUTE WITH BRGM  
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2. (SBU) [REDACTED] WHO HAPPENED TO BE IN PERU WHEN THE VIDEO WAS RELEASED, BRIEFED THE AMBASSADOR ON THE CASE JANUARY 26. [REDACTED]

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[REDACTED] ONE OF LATIN AMERICA'S LARGEST WITH PRODUCTION OF 1.77 MILLION OUNCES OF GOLD (AND

n/a  
[REDACTED]

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[REDACTED]

n/a

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1.54 MILLION OUNCES OF SILVER) IN 2000. (NOTE: THE WORLD BANK'S PRIVATE SECTOR ARM, THE INTERNATIONAL FINANCE CORPORATION, ALSO HAS A 5% STAKE IN THE MINE. CONFIDENTIAL

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END NOTE.) IN 1993, BEFORE THE MINE WENT INTO FULL-SCALE PRODUCTION, [REDACTED]

[REDACTED]

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3. (SBU) [REDACTED] TOOK THE CASE TO COURT IN PERU IN DECEMBER 1994. [REDACTED]

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[REDACTED] WON AN INITIAL INJUNCTION ALLOWING THEM TO CONTINUE OPERATING THE MINE AND LOWER COURTS SUBSEQUENTLY RULED THAT THEY HAD THE RIGHT TO PURCHASE [REDACTED] STAKE, AND THAT THE PREEMPTIVE RIGHTS WERE TRIGGERED WHEN [REDACTED] ANNOUNCED ITS INTENTION TO SELL IN JANUARY 1993. THE LATTER RULING HAD THE EFFECT OF SETTING THE PRICE FOR [REDACTED] STAKE AT \$109 MILLION, A PRICE THAT [REDACTED] ADMITS WAS A BARGAIN (THE SAME STAKE IS WORTH ABOUT \$500 MILLION TODAY). THROUGHOUT THE PROCESS, [REDACTED]

*← which mine?*

[REDACTED] BUT WERE REBUFFED.

4. (C) IN SEPTEMBER 1997, MUCH TO [REDACTED] SURPRISE, THE SUPREME COURT AGREED TO HEAR THE CASE. [REDACTED] SAID THAT IT WAS AT THIS POINT THAT [REDACTED]

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[REDACTED] AND THAT THEY SOUGHT USG ASSISTANCE IN [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED] PTQ1980

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ACTION WHA-00

n/a  
[REDACTED]

[REDACTED]

n/a

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INFO	LOG-00	NP-00	AID-00	CRA-01	CIAE-00	SMEC-00	CTME-00
	INL-00	DINT-00	DODE-00	DOEE-00	SRPP-00	DS-00	EB-00
	EUR-00	EXIM-01	E-00	VC-00	FRB-00	H-01	TEDE-00
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	OES-01	OIG-03	OMB-01	OPIC-01	PA-00	PC-01	PM-00
	PRS-00	ACE-00	P-00	SP-00	SSO-00	STR-00	USIE-00
	PMB-00	DSCC-00	DRL-02	G-00	NFAT-00	SAS-00	SWCI-00

/014W

-----C10D68 051629Z /38

R 051625Z FEB 01  
 FM AMEMBASSY LIMA  
 TO SECSTATE WASHDC 8574  
 INFO DEPT OF TREASURY WASHINGTON DC  
 USDOC WASHDC  
 AMEMBASSY BOGOTA  
 AMEMBASSY CARACAS  
 AMEMBASSY LA PAZ  
 AMEMBASSY QUITO  
 AMEMBASSY SANTIAGO  
 AMEMBASSY SANTO DOMINGO  
 AMEMBASSY PARIS

[REDACTED] SECTION 02 OF 03 LIMA 000658

[REDACTED]

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 STATE FOR WHA/AND, WHA/EPSC, EB/OIA, EB/CBA, EB/ESC  
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 DEPT PASS INT/USGS/RESTON FOR AGURMENDI  
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ENSURING THE PROCESS WAS FAIR AND TRANSPARENT.

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[REDACTED]

THE FIVE-  
JUDGE PANEL RULED IN JANUARY 1998 3-2 IN FAVOR OF

n/a

[REDACTED]

[REDACTED]  
n/a

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[REDACTED] UNDER PERUVIAN LAW, FOUR JUSTICES MUST AGREE TO THE FINAL RULING, SO A SIXTH JUDGE WAS SELECTED. SHE RULED IN FAVOR OF [REDACTED] MAKING IT NECESSARY TO SELECT A SEVENTH JUDGE. IT WAS THIS JUDGE, JAIME BELTRAN QUIROGA, WHOM MONTESINOS PRESSURED AND WHO ULTIMATELY DECIDED THE CASE IN FAVOR OF [REDACTED] IN MAY 1998. [REDACTED] REACHED A FINAL SETTLEMENT BASED ON THE RULING IN DECEMBER 2000.

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VIDEO CALLS COURT DECISION INTO QUESTION  
[REDACTED]

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5. (U) THE RELEASE OF THE "VLADIVIDEO" ON JANUARY 24 INITIALLY APPEARED TO CALL INTO QUESTION THE VALIDITY OF THE RULING IN [REDACTED] FAVOR. RECORDED ON MAY 19, 1998--THE DAY THE BELTRAN'S DECISION WAS RELEASED--IT SHOWS MONTESINOS PRESSURING BELTRAN TO RULE IN [REDACTED] FAVOR. ASSURING BELTRAN THAT HE IS NOT TRYING TO IMPOSE A DECISION, MONTESINOS NONETHELESS STRESSES THAT THE CASE HAS BECOME A MATTER OF STATE AND THAT HIS DECISION MUST BE ONE THAT PROTECTS PERU'S NATIONAL INTEREST. MONTESINOS EXPLAINS THAT U.S. SUPPORT FOR THE PERU-ECUADOR PEACE PROCESS MIGHT BE IN JEOPARDY AND ASSERTS THAT WASHINGTON OFFICIALS WERE PRESSURING PRESIDENT FUJIMORI DIRECTLY, QUESTIONING WHETHER THE FRENCH WERE WORKING TO TURN THE DECISION IN THEIR FAVOR. MONTESINOS GOES ON TO SUGGEST THAT HE MIGHT GET BELTRAN A BETTER POSITION ONCE HE'S MADE THE DECISION.

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6. (SBU) THE EVENING OF JANUARY 24, FRENCH AMBASSADOR BLANCA APPEARED ON A LOCAL NEWS SHOW PROCLAIMING, "NOW I KNOW WHY [REDACTED] WON." FOLLOWING HIS INITIAL PUBLIC OUTRAGE, HOWEVER, BLANCA BACKED OFF, NOTING THAT A SETTLEMENT HAD BEEN SIGNED AND STATING THAT RELATIONS BETWEEN [REDACTED] WERE NOW GOOD. ON JANUARY 29, [REDACTED] CALLED A LOCAL TELEVISION STATION FROM FRANCE. HE ACCUSED [REDACTED] OF SOLICITING A \$50,000 BRIBE TO RESOLVE THE CASE IN [REDACTED] FAVOR AND SUGGESTED THAT A \$6.2 MILLION [REDACTED]

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[REDACTED]  
n/a  
[REDACTED]

n/a

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PAYMENT FROM [REDACTED] TO THEIR PERUVIAN LAWYER MUST  
HAVE INCLUDED FUNDS FOR BRIBES.

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BELTRAN, AMBASSADOR, [REDACTED] DENY ALLEGATIONS  
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B4

7. (U) IN THE WAKE OF THE ALLEGATIONS, BELTRAN  
CATEGORICALLY DENIED THAT HE HAD GIVEN IN TO PRESSURE  
FROM MONTESINOS, STATING THAT THE CASE WAS A CLEAR ONE  
ON ITS MERITS. HE ALSO ASSERTED THAT HE HAD MADE HIS  
DECISION BEFORE MONTESINOS CONTACTED HIM, AN ASSERTION  
SUPPORTED BY THE FACT THAT THE RULING WAS RELEASED THE  
DAY THEY SPOKE: THERE IS USUALLY A GAP OF TWO OR THREE  
DAYS BETWEEN A JUDGE SUBMITTING HIS RULING AND ITS  
PUBLICATION. THE AMBASSADOR TOLD LOCAL PRESS JANUARY  
25 THAT THE USG HAD NEVER MADE ANY LINKAGE BETWEEN THE  
[REDACTED] CASE AND SUPPORT FOR THE PERU-ECUADOR PEACE  
PROCESS. HE EXPLAINED THAT USG REPRESENTATIONS WERE  
COMMON IN SUCH CASES, BUT ALWAYS AND ONLY TO ENSURE A  
FAIR TRIAL BASED ON THE MERITS OF THE CASE.

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8. (SBU) [REDACTED]

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[REDACTED] CATEGORICALLY DENIED ANY IMPROPER  
ACTION IN THE CASE. HE SUGGESTED THAT RELEASE OF THE  
VIDEO MIGHT HAVE BEEN PART OF AN EFFORT BY A  
PRESIDENTIAL CANDIDATE, WHOM HE REFUSED TO NAME, TO

[REDACTED]

[REDACTED]

PTQ1984

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ACTION WHA-00

INFO	LOG-00	NP-00	AID-00	CEA-01	CIAE-00	SMEC-00	CTME-00
	INL-00	DINT-00	DODE-00	DOEE-00	SRPP-00	DS-00	EB-00
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	PRS-00	ACE-00	P-00	SP-00	SSO-00	STR-00	USIE-00
	PMB-00	DSCC-00	DRL-02	G-00	NFAT-00	SAS-00	SWCI-00

/014W

-----C10D7C 051630Z /38

R 051625Z FEB 01

n/a

[REDACTED]

[REDACTED]

n/a

Case Number: 200102877

FM AMEMBASSY LIMA  
TO SECSTATE WASHDC 8575  
INFO DEPT OF TREASURY WASHINGTON DC  
USDOC WASHDC  
AMEMBASSY BOGOTA  
AMEMBASSY CARACAS  
AMEMBASSY LA PAZ  
AMEMBASSY QUITO  
AMEMBASSY SANTIAGO  
AMEMBASSY SANTO DOMINGO  
AMEMBASSY PARIS

[REDACTED] SECTION 03 OF 03 LIMA 000658

[REDACTED]

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STATE FOR WHA/AND, WHA/EPSC, EB/OIA, EB/CBA, EB/ESC  
TREASURY FOR OASIA  
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UNDERMINE [REDACTED] CREDIBILITY. [REDACTED] HAS  
REMAINED OUT OF THE SPOTLIGHT. [REDACTED]

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[REDACTED] HAVE MADE CLEAR TO US, HOWEVER,  
THAT THEY WERE CAREFUL TO INSTRUCT THEIR PERUVIAN  
LAWYERS ABOUT THE NEED TO FOLLOW THE FOREIGN CORRUPT  
PRACTICES ACT. THEY ACKNOWLEDGED THAT, FOLLOWING  
SETTLEMENT OF THE CASE, THEY MADE A LARGE PAYMENT TO  
THEIR LAWYER BASED ON THEIR 1993 CONTRACT. BUT THEY  
SAID THEY HAD ENSURED THAT NONE OF THE FUNDS WOULD GO  
FOR PAYMENTS TO THIRD PARTIES AND HAD NO REASON TO  
BELIEVE THAT THEIR LAWYER HAD PAID BRIBES. [REDACTED]

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[REDACTED] BUT FLATLY DENIED HIS  
ALLEGATIONS, SAYING HE CUT SHORT THE MEETING WHEN  
[REDACTED] BECAME APPARENT.

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COMMENT: STILL APPEARS CASE WAS DECIDED ON MERITS  
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n/a  
[REDACTED]

[REDACTED]  
n/a

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9. (C) WITH ELECTION-RELATED NEWS AND A STEADY STREAM OF REVELATIONS REGARDING MONTESINOS-RELATED CORRUPTION, THE STORY APPEARS TO HAVE RUN ITS COURSE. THE ALLEGATIONS AGAINST [REDACTED] APPEAR TO HAVE LITTLE CREDIBILITY, AND OUR QUICK AND CATEGORICAL RESPONSE SEEMS TO HAVE PUT TO REST THE SUGGESTION THAT THE USG IMPROPERLY INFLUENCED THE OUTCOME.

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10. (C) AS A RESULT OF THE VIDEO, QUESTIONS WILL LIKELY REMAIN ABOUT BELTRAN'S MOTIVES FOR RULING IN FAVOR OF [REDACTED] MONTESINOS UNDOUBTEDLY TRIED TO INFLUENCE THE CASE, MISREPRESENTING U.S. INTERESTS IN THE PROCESS. THAT SAID, IT STILL APPEARS THAT THE CASE WAS DECIDED ON ITS MERITS. SUPPORTING THIS CONCLUSION IS THE DECISION IN A RELATED CASE BETWEEN [REDACTED] OVER OWNERSHIP OF ANOTHER MINING INTEREST, [REDACTED]

B4

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[REDACTED] WENT TO INTERNATIONAL ARBITRATION THROUGH THE INTERNATIONAL CHAMBERS OF COMMERCE TO RESOLVE IDENTICAL QUESTIONS OF PREEMPTIVE PURCHASE RIGHTS. THE PANEL OF THREE ARBITRATORS-- WHICH INCLUDED A FRENCH NATIONAL-- FOUND IN [REDACTED] FAVOR IN JUNE 1999. MOREOVER, THE CASE APPEARS TO SUPPORT INDICATIONS THAT [REDACTED] REPRESENTATIVES WERE PREPARED TO GO TO EXTREME LENGTHS TO SECURE A FAVORABLE OUTCOME. LOCAL PRESS ACCOUNTS HAVE REPORTED THE PANEL'S CRITICISM OF [REDACTED] BEHAVIOR IN THE CASE, CITING, INTER ALIA, "THE THREATS MADE BY THE PLAINTIFF'S [REDACTED] LEGAL REPRESENTATIVES AGAINST LEGAL EXPERTS FOR TESTIFYING AGAINST THE INTERESTS OF THEIR OWN COUNTRY."

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HAMILTON

<< END OF DOCUMENT >>

[REDACTED]  
n/a