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NSAE-00	NSCE-00	OIC-02	OMB-01	PA-01	PM-01	PRS-01	
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P 022315Z AUG 91
 FM AMEMBASSY LIMA
 TO SECSTATE WASHDC PRIORITY 0227
 INFO AMEMBASSY BOGOTA
 AMEMBASSY LA PAZ
 AMEMBASSY QUITO
 DEPTJUSTICE WASHDC
 USMISSION GENEVA 1805
 USCINCSO QUARRY HTS PM
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IS/FPC/CDR *MB* Date: *9/4/96*

DEPARTMENT OF STATE

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DEPT FOR A/S SCHIFTER
 USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
 JUSTICE FOR ICITAP
 HQDA FOR DAJA/IA LTC MCATAMNEY

E.O. 12356: DECL: OADR
 TAGS: PHUM, PREL, KJUS, MASS, PE
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 SUBJECT: HUMAN RIGHTS ACTION PLAN: FOLLOW UP TO A/S
 SCHIFTER VISIT JULY 10-13

- REFS: 1) LIMA 9774, 2) LIMA 9642, 3) LIMA 9611, 4) LIMA 9524, 5) LIMA 9496, 6) LIMA 9491, 7) LIMA 9490, 8) LIMA 8776, 9) LIMA 8775

1. ~~CONFIDENTIAL~~ ENTIRE TEXT.

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2. SUMMARY: ENCOURAGED BY A/S SCHIFTER'S OFFERS OF CONSTRUCTIVE ASSISTANCE AND GOADED BY THE IMMINENCE OF THE INCA CERTIFICATION, THE GOP IS SHOWING NEW OPENNESS ON HR COOPERATION. WE INTEND TO HOLD THEIR FEET TO THE FIRE, BUT WE WILL ALSO NEED TO CAPITALIZE ON NASCENT GOP OPENNESS BY OFFERING CONCRETE ASSISTANCE AS A CATALYST FOR HR REFORMS. MILITARY-MILITARY COOPERATION BETWEEN JAG OFFICERS APPEARS PROMISING, AS DOES HR INSTRUCTION BLOCS IN OUR NARCOTICS RELATED SECURITY ASSISTANCE AND COOPERATION WITH A NEW HR OFFICE IN THE MILITARY JOINT COMMAND STAFF. SIMILARLY, THE CHIEF PROSECUTOR'S OFFICE WITH DIRECT RESPONSIBILITY FOR TERRORIST PROSECUTIONS AND HR PROTECTION IS WILLING TO WORK WITH US. WE WILL NEED FLEXIBILITY AND IMAGINATION IN APPLYING OUR LIMITED MANPOWER AND ASSISTANCE TO THE SERVICE OF AN ACTIVE HR PROGRAM. SEMIANNUAL VISITS BY ASSISTANT SECRETARY FOR HUMAN RIGHTS WOULD HELP KEEP PROGRAM FOCUSED. CONGRESSIONAL COOPERATION WILL ALSO BE NEEDED TO ENSURE THAT WE ADDRESS HR CONCERNS OURSIDE OF NARCO-TRAFFICKING AREAS THAT ARE THE FOCUS OF OUR

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NORMAL ASSISTANCE EFFORTS. END SUMMARY.

A BREAK-THROUGH VISIT

3. A/S SCHIFTER'S VISIT, COMING ON THE EVE OF THE INCA CERTIFICATION, EVOKED A GOP OPENNESS -- IF NOT OUTRIGHT ENTHUSIASM -- FOR HUMAN RIGHTS, THE LIKES OF WHICH HAS NOT BEEN SEEN HERE BEFORE. A NUMBER OF POSITIVE DEVELOPMENTS CAME TO LIGHT IN THE PERIOD SURROUNDING A/S SCHIFTER'S VISIT: THE INAUGURATION OF HR TRAINING, WITH INVOLVEMENT OF CIVILIAN EXPERTS, IN ARMY CADET INSTRUCTION STARTING IN MAY; THE ANNOUNCEMENT OF A NEW OFFICE FOR HUMAN RIGHTS IN THE MILITARY JOINT COMMAND STAFF (JCS); THE CREATION OF AN INTERMINISTERIAL COMMITTEE COMPRISED OF MOD, MOI, MFA, AND MOJ TO COORDINATE GOVERNMENT HR POLICY; THE TWO DAY MFA/PUBLIC MINISTRY SEMINAR ON THE ROLE OF

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THE ICRC FOR PROSECUTORS AND HR DEFENDERS; POSSIBILITY THAT THE REVISION OF THE CODE OF MILITARY JUSTICE CURRENTLY UNDERWAY WOULD SPECIFICALLY LIST HUMAN RIGHTS VIOLATIONS AS A SEPARATE OFFENSE; THE MANIFEST ENTHUSIASM OF THE PERUVIAN MILITARY DURING THE SCHIFTER VISIT FOR A JAG-TO-JAG COOPERATION PROGRAM FOCUSED ON HR; THE MINISTER OF DEFENSE'S UNPARALLELED THREE HOUR PRESS CONFERENCE ON JULY 16TH IN WHICH HE PUBLICLY REPUDIATED A DRAFT JCS DIRECTIVE (WHICH SANCTIONED HUMAN RIGHTS ABUSES UNDER SOME CIRCUMSTANCES) AS FLATLY VIOLATING GOVERNMENT POLICY AND PROMISED THAT THE AUTHOR WOULD BE PUNISHED; THE

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PUBLIC ANNOUNCEMENT IN THE SAME PRESS CONFERENCE THAT 71 MILITARY PERSONNEL HAVE BEEN PROSECUTED FOR HR OFFENSES, AGAIN AN UNPRECEDENTED GOVERNMENT ADMISSION; THE ICRC'S PRIVATE ACKNOWLEDGEMENT THAT THE MINISTER OF DEFENSE HAS GIVEN THEM TO UNDERSTAND THAT HE WOULD LOOK FAVORABLY ON A FORMAL REQUEST FOR ICRC ACCESS TO MILITARY CUARTELS, (A REQUEST THAT THE ICRC HAS PREFERRED TO DEFER UNTIL THERE WAS A CONSENSUS AT SUBORDINATE COMMAND LEVELS TO MAKE IT STICK); THE CHIEF PROSECUTOR'S REVELATION THAT HE INTENDS TO SEEK FORMAL ACCESS FOR HIS PROSECUTORS (FISCALES) TO CIVILIAN PRISONERS UNDER MILITARY DETENTION AND THAT HE EXPECTED IT WOULD BE GRANTED.

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P 022315Z AUG 91
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 0228
INFO AMEMBASSY BOGOTA
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DEPT FOR A/S SCHIFTER
USCINCSO FOR SC/SJA COL GRAHAM AND POLAD
JUSTICE FOR ICITAP
HQDA FOR DAJA/IA LTC MCATAMNEY

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4. NONE OF THESE STEPS WOULD TRANSFORM THE
DEPLORABLE HR SITUATION OVERNIGHT, AND A CERTAIN
AMOUNT OF BACKSLIDING AND LIP SERVICE MUST BE
EXPECTED. BUT TAKEN COLLECTIVELY, THEY SUGGEST THAT
THE ICEBERG IS BEGINNING TO MELT. IN THE PROCESS OF
EXPLAINING THE CRITICAL INCA DETERMINATION WE WILL
CERTAINLY KEEP THE HEAT ON. THE GOP MUST COME TO

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REALIZE THAT IT IS NOT A QUESTION OF GETTING OVER A ONE-TIME HURDLE, BUT RATHER THAT IT MUST MAKE GENUINE HUMAN RIGHTS IMPROVEMENTS. AT THE SAME TIME, AS A/S SCHIFTER EMPHASIZED REPEATEDLY, WE ALSO HAVE TO PROVIDE THE GOP CONCRETE AND TIMELY ASSISTANCE IN ADOPTING A PRO-HUMAN RIGHTS POLICY AS AN INTEGRAL PART OF A SUCCESSFUL ANTI-TERRORIST EFFORT. NONE OF THIS WILL BE EASY; OUR CLEAR THREAT OF CUTTING OFF SECURITY ASSISTANCE MUST ALSO BE ACCOMPANIED BY PROGRAMS TO MAKE HR A REALITY NOW THAT THE GOP IS BEGINNING TO REALIZE IT IS A SINA QUA NON FOR SUSTAINED COOPERATION WITH US.

GOP CONTACTS

5. USG EFFORTS TO ADVANCE THIS PROCESS BY POSITIVE ASSISTANCE HAVE TO BE BASED ON A HARD HEADED ANALYSIS OF (1) GOP RECEPTIVITY; (2) WHAT WE HAVE TO OFFERED, AND; (3) A CLEAR FOCUS ON THE ESSENTIAL AND NOT THE COSMETIC. THE FIRST PRIORITY SHOULD BE ON WHAT THE

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GOP IS READY TO ACCEPT AND WHAT WE CAN TANGIBLY PROVIDE TO GET THE PROGRAM OFF THE GROUND. BUT WE CAN NOT LOSE SIGHT OF THE LONG-TERM GOAL: FAR REACHING SYSTEMIC REFORMS, EVEN IF THEY ARE BEYOND OUR IMMEDIATE GRASP. NOW THAT WE HAVE THE GOP'S ATTENTION, WE INTEND TO INTENSIFY OUR PROGRAMMATIC DIALOGUE WITH CIVILIAN AND MILITARY INTERLOCUTORS TO IDENTIFY WHICH OF THE NEW ENTITIES IS WILLING AND CAPABLE OF RUNNING WITH THE BALL.

6. THESE POSSIBLE INTERLOCUTORS INCLUDE: THE MOD, WHERE GENERAL ARCINIEGA'S HR SECTION MUST BE PUT TO THE TEST; THE JOINT COMMAND STAFF'S NEW HR OFFICE WHICH COULD BECOME A VALUABLE ALLY FOR INFUSING CHANGE INTO THE MILITARY SERVICES; THE FOUR-MINISTRY GOP HR COORDINATING COMMITTEE WHICH MUST BUCK THE TREND OF HISTORY IF IT IS TO AMOUNT TO ANYTHING; THE SEMI-AUTONOMOUS PUBLIC MINISTRY (CHIEF PROSECUTOR'S OFFICE) WHICH HAS RESPONSIBILITY FOR DEFENDING HUMAN RIGHTS AND STANDS APART FROM THE FOUR-PARTY

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INTERMINISTERIAL COORDINATING COMMITTEE; THE SOON TO BE CONSTITUTED NATIONAL COUNCIL FOR PEACE CHAIRED BY THE PRIME MINISTER; THE SEPARATE HIGH COMMISSION FOR PEACE WHICH FATHER MACGREGOR IS SUPPOSED TO HEAD; AND OUR REGULAR CONTACTS WITH THE MFA; PRIVATE HR GROUPS UNDER THE COORDINADORA; THE ICRC AND THE SEPARATE MILITARY SERVICES AND POLICE. THE VERY MULTIPLICITY OF POSSIBLE INTERLOCUTORS IS DIZZYING. WE HARBOR FEW ILLUSIONS THAT AN EFFECTIVE GOP HR COORDINATION SYSTEM WILL COME INTO BEING OVERNIGHT. NONE THE LESS, ALL WILL HAVE TO BE TESTED.

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ACTION AGENDA

7. IN THE SHORT TERM, THE BEST BETS FOR RESULTS WHERE WE HAVE SOMETHING TO OFFER, WOULD PROBABLY BE IN THE FOLLOWING ORDER:

-- MILITARY-TO-MILITARY JAG COOPERATIONS: THE PERUVIANS SEEM EAGER TO ENGAGE IN A DIALOGUE WHERE THEY COULD BENEFIT FROM THE LESSONS WE HAVE LEARNED. COLONELS GRAHAM AND MCATAMNEY COULD SUPPORT THE EFFORT FROM SOUTHCOM AND DOD RESPECTIVELY IN

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P 022315Z AUG 91
FM AMEMBASSY LIMA
TO SECSTATE WASHDC PRIORITY 0229
INFO AMEMBASSY BOGOTA
AMEMBASSY LA PAZ
AMEMBASSY QUITO
DEPT JUSTICE WASHDC
USMISSION GENEVA 1807
USCINCSO QUARRY HTS PM
DA WASHDC
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DEPT FOR A/S SCHIFTER
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COORDINATION WITH MAAG AS THE LEAD ELEMENT FOR THE
MISSION'S COUNTER-TERRORISM/HUMAN RIGHTS WORKING
GROUP (CT/HR WG)

-- HR TRAINING FOR THE MILITARY AND POLICE UNITS
TO BE SUPPORTED UNDER THE \$34.9 MILLION FY-91
NARCOTICS RELATED SECURITY ASSISTANCE PROGRAM. MAAG

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WOULD HAVE TO COORDINATE INTENSIVE PROGRAM, USING FMF, AS IMET IS ONE YEAR MONEY AND CONDITIONS FOR LIFTING BROOKE AMENDMENT SANCTIONS (I.E., PARIS CLUB SETTLEMENT) MOST LIKELY WILL NOT BE MET UNTIL EARLY 1992.

-- SUPPORT FOR THE JOINT COMMAND'S NEW HR OFFICE: AN UNKNOWN QUANTITY, BUT IT COULD BE CRUCIAL IN GETTING THE WORD TO THE SERVICES THAT IT IS TIME TO GET WITH THE PROGRAM. AT LEAST WE HAVE A GOOD POINT OF CONTACT IN THE JOINT COMMAND FOR STARTERS. FY-91/92 FMF FUNDING POSSIBLE.

-- PUBLIC MINISTRY (ATTORNEY GENERAL'S OFFICE) WITH RESPONSIBILITY TO PROSECUTE ACCUSED TERRORISTS AND TO PROTECT HUMAN RIGHTS THROUGH ITS SPECIAL FISCALS. WE PLAN TO FOLLOW UP ON CHIEF PROSECUTOR'S PROMISE TO ASK FOR ACCESS TO MILITARY CUARTELS AND EXPLORE WITH AID POSSIBILITY OF FURTHER HR-DIRECTED ASSISTANCE USING FY-91/92 ESF. THIS COULD INCLUDE AN EXPANSION IN AID'S SUPPORT TO THE SPECIAL PROSECUTOR FOR HUMAN RIGHTS TO INVESTIGATE AND PROSECUTE HR

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CASES MORE EFFECTIVELY. ALSO, WE WILL EXPLORE SHARING LESSONS LEARNED AND EXPERIENCES IN MANAGING HR CASES BETWEEN PERUVIAN JUDGES AND PROSECUTORS AND THEIR COUNTERPARTS IN OTHER COUNTRIES WITH SIMILAR PROBLEMS.

-- ICRC ACCESS: ICRC OBVIOUSLY DOES NOT TAKE AT FACE VALUE INDICATIONS FROM MINISTER TORRES ACIEGO AND GENERAL ARCINIEGA THAT IT WILL BE ACCORDED GENUINE ACCESS TO MILITARY PRISONERS IF FORMALLY REQUESTED. THEY GOT SIMILAR POSITIVE SIGNALS FROM MINISTER OF INTERIOR MALCA WITH REGARD TO COMPLETE ACCESS TO POLICE FACILITIES NATIONWIDE BUT SEEM TO HAVE RUN INTO SNAGS. THE ICRC MAY BE RIGHT IN ANTICIPATING GOP LIP SERVICE, BUT UNTIL IT FORMALLY SEEKS ACCESS TO ALL MILITARY AND POLICE PRISONERS, THE GOP WILL BE ABLE TO CLAIM, WITH SOME JUSTIFICATION, THAT NOT SUCH REQUEST HAS BEEN MADE. WE WILL BE FOLLOWING UP WITH ICRC WHILE SUGGESTING THAT IT ALSO BRIEF THE MILITARY AND POLICE IN THE

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EMERGENCY ZONES ON ITS ROLE AS DONE EARLIER WITH THE PUBLIC MINISTRY FISCALES.

-- THE JUDICIARY: MANY PERUVIANS CITE THE JUDICIARY'S INABILITY TO COPE WITH TERRORISM AS AN EXCUSE FOR EXTRA-LEGAL MEASURES. THE CONCLUSION IS UNACCEPTABLE, BUT THE COMPLAINT IS WELL FOUNDED. WITH ONLY 34 TERRORIST CONVICTIONS IN 1987 (THE LAST YEAR FOR WHICH DATA IS AVAILABLE) THE SYSTEM HAS BROKEN DOWN. THERE IS NO CONSPIRACY STATUTE, AND CIRCUMSTANTIAL EVIDENCE HAS LITTLE WEIGHT IN SECURING

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CONVICTIONS, MAKING COERCED CONFESSIONS THE ORDER OF THE DAY. JUDICIAL RULINGS ALL TOO OFTEN GO TO THE HIGHEST BIDDER. THE NEW PENAL CODE OFFERS LITTLE HELP IN DEALING WITH TERRORISM WHICH, IN THE WORDS OF ITS PRIME DRAFTER, "MUST CONTINUE TO BE DEALT WITH USING TRADITIONAL METHODS".

REFORMING THE JUDICIARY AND PENAL CODE TO DEAL WITH TERRORISM WHILE RESPECTING HUMAN RIGHTS IS A LONG TERM PROCESS WHICH WILL BE ADDRESSED BY AID'S JUDICIAL REFORM PROJECT, FOLLOWING UP ON ITS ADMINISTRATION OF JUSTICE ACTIVITY. PROSPECTS FOR SHORT TERM FIXES ARE EXTREMELY POOR. BUT IT MAY BE POSSIBLE TO STIMULATE US/GOP CONTACTS/EXCHANGES.

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BETWEEN AND AMONG JUDGES AND PROSECUTOR OFFICIALS
WHICH COULD STIMULATE PERUVIAN THINKING ON MORE FAR
REACHING REFORMS. AID WILL ACTIVELY PURSUE
FACILITATING JUDICIARY-JUDICIARY AND
FISCAL-PROSECUTOR CONTACTS IN CONJUCTION WITH HA.

-- PRISON REFORM: CORRUPTION AND UNDER FUNDING IN

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PERUVIAN PRISONS ARE SO CHRONIC AS TO BE HOPELESS. SECURITY IS RISIBLE. THE COSTS OF HOLDING LARGE NUMBERS OF TERRORISTS -- ASSUMING THEY COULD BE CAUGHT, TRIED AND CONVICTED -- WOULD BE DAUNTING. BUT THE ALTERNATIVE IS A NO PRISONER POLICY BY DEFAULT. A PILOT PROGRAM WITH USG ASSISTANCE OF MODULAR PRISONS UNDER STRICT ICRC SUPERVISION FOR NARCO-TERRORISTS IN THE UHY HAS BEEN SUGGESTED BY ONE THOUGHTFUL PERUVIAN OFFICER. THIS COULD REDUCE LIKELY ACCUSATIONS OF USG COMPLICITY WITH HR ABUSES WHEN GOP SECURITY FORCES IN THE UHY BEGIN TO RECEIVE OUR ASSISTANCE. OTHER THAN SUCH A TIGHTLY FOCUSED EFFORT, WE SHOULD NOT VENTURE INTO THIS AREA WHERE WE HAVE LITTLE TO OFFER. FUNDING FOR EVEN A PILOT PROGRAM WOULD BE PROBLEMATIC. THE COUNTRY TEAM PLANS TO DEVELOP A PROGRAM IN THE CONTEXT OF THE FY-92 SECURITY ASSISTANCE PROGRAM.

8. IN THE SHORT TERM, WE SHOULD: PROGRAM OUR \$900,000 IN FY-91 FMF FUNDS FOR IMMEDIATE HR TRAINING/ASSISTANCE TO THE MILITARY AND POLICE; EXPLORE FURTHER HR ASSISTANCE TO THE CHIEF

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PROSECUTOR'S OFFICE USING ESF; GET JAG-JAG COOPERATION UNDERWAY BY EARLY FY-92; IDENTIFY UTILITY OF ASSISTANCE TO JCS HUMAN RIGHTS OFFICE, AND; PRESS BOTH THE ICRC AND PUBLIC MINISTRY TO OFFICIALLY REQUEST ACCESS TO ALL MILITARY AND POLICE TERRORIST PRISONERS. OVER THE LONGER TERM WE SHOULD SUPPORT: DISCUSSION OF INCREASED LOCAL ACCOUNTABILITY BY PUTTING ELEMENTS OF THE POLICE UNDER MUNICIPAL CONTROL; JUDICIAL AND PENAL REFORMS TO SECURE ADEQUATE CONVICTION RATES FOR ACCUSED TERRORISTS SO THAT POLICE AND MILITARY DO NOT RESORT TO EXTRA-JUDICIAL MEASURES, AND; SUNSHINE PROVISIONS WHICH KEEP SECURITY FORCES ACCOUNTABLE FOR THEIR ACTIONS.

9. THE MISSION'S COUNTER-TERRORISM HUMAN RIGHTS WORKING GROUP COORDINATES HR-DIRECTED PROPOSALS TO BETTER INTEGRATE OUR OVERALL EFFORT. WE HOPE THAT WASHINGTON AGENCIES CAN ESTABLISH A SIMILAR MECHANISM TO INTENSIFY THE PROGRESS WE ALL SEEK. WE STRONGLY

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RECOMMEND THAT A/S SCHIFTER'S VISIT BE REPEATED, PERHAPS SEMIANNUALLY, TO HELP US KEEP THE GOP FOCUSED ON THE PROGRESS THAT IS NEEDED AND AS AN OCCASION FOR THE MISSION AND WASHINGTON TO COMPARE NOTES ON WHAT HAS BEEN ACCOMPLISHED AND WHAT STILL NEEDS TO BE DONE. SIMILARLY, WE WILL HAVE TO KEEP BOTH FUNDING AND PERSONNEL REQUIREMENTS UNDER CAREFUL REVIEW AS A PRO-ACTIVE HR POSTURE WILL EAT HEAVILY INTO STAFF TIME AND ASSISTANCE RESOURCES. FOR A PRO-ACTIVE HR AGENDA TO TAKE HOLD WE WILL NEED SOME FLEXIBILITY IN USING OUR FMF/IMET AND ESF. WE WILL HAVE TO DEPEND

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ON WASHINGTON AGENCIES TO SECURE CONGRESSIONAL COOPERATION IN THAT PROCESS. ULTIMATELY, AS LAID OUT IN OUR FY-91/92 MISSION PROGRAM PLAN (SECTION IIB OPERATING ASSUMPTIONS), WE BELIEVE THAT THE GOP WILL RESPOND TO OUR HR CONCERNS ONLY IF WE ARE PREPARED TO ADDRESS TERRORISM IN SOME SYMBOLICALLY SIGNIFICANT WAYS, GOING BEYOND OUR CURRENT EXCLUSIVE FOCUS ON NARCOTICS-PRODUCING AREAS. MOST OF THE HR VIOLATIONS ARE TAKING PLACE OUTSIDE OF THE UHV, AND IF WE WANT TO HAVE AN IMPACT, OUR HR DIRECTED PROGRAMS MUST BE MORE BROADLY FOCUSED. CONVINCING CRITICS THAT WE ARE NOT SLIDING BACK INTO VIETNAM BY WAY OF AYACUCHO AND JUNIN MAY BE DIFFICULT, BUT THE ALTERNATIVE IS TO REMAIN MARGINAL TO REAL HR IMPROVEMENTS HERE.

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HAMILTON

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