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TEXT  
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SUBJECT: CONGRESS ACTS AGAINST JUDGES IN  
 - GARCIA CORRUPTION CASE

REFS: A) LIMA 17019, B) LIMA 16579,  
 - C) LIMA 14797

1. (C) SUMMARY: USING AN UNRELATED LEGAL CASE AS ITS JUSTIFICATION, THE CHAMBER OF DEPUTIES HAS OPENED DEBATE FOR IMPEACHMENT OF THREE SUPREME COURT JUDGES WHO HAVE THE POWER TO REVERSE THE PRELIMINARY DISMISSAL OF CHARGES AGAINST EX-PRESIDENT ALAN GARCIA. THE CHAMBER WILL CONSIDER CHARGING THE JUDGES WITH DERELECTION OF DUTY IN THE CASTILLO PAEZ/AUGUSTO ZUNIGA HUMAN RIGHTS CASE. THE ACTION REFLECTS

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DISGUST IN THE CONGRESS WITH THE CORRUPT AND  
POLITICIZED JUDICIARY. END SUMMARY.

2. (U) ON DECEMBER 4, THE DAY FOLLOWING THE  
PRELIMINARY DISMISSAL OF THE CORRUPTION CHARGES  
AGAINST EX-PRESIDENT GARCIA, THE CHAMBER OF  
DEPUTIES VOTED TO OPEN DEBATE ON IMPEACHMENT OF  
THE SUPREME COURT JUSTICES WHO WILL DECIDE IF  
THE CHARGES AGAINST GARCIA WILL BE PERMANENTLY  
DROPPED. THE ACCUSATION AGAINST THE FIVE SECOND  
SALA SUPREME COURT JUDGES IS PROMPTED BY THEIR  
ANNULMENT OF A WRIT OF HABEAS CORPUS IN THE  
ERNESTO CASTILLO PAEZ HUMAN RIGHTS CASE.  
CASTILLO WAS A UNIVERSITY STUDENT DETAINED BY  
THE POLICE IN OCTOBER 1990. A LOWER COURT JUDGE  
ISSUED A RARE WRIT OF HABEAS CORPUS AGAINST THE  
MINISTER OF INTERIOR AND VARIOUS POLICEMEN,  
INCLUDING POLICE COMANDANTE MEJIA LEON. THE  
WRIT WAS UPHELD BY A HIGHER COURT IN NOVEMBER  
BUT ANNULLED BY THE SECOND SALA OF THE SUPREME  
COURT IN FEBRUARY 1991, A MOVE CONSIDERED  
UNCONSTITUTIONAL BY MOST OBSERVERS. THE CASE  
TOOK A NASTIER TURN IN MARCH WHEN THE CASTILLO  
FAMILY LAWYER, AUGUSTO ZUNIGA PAZ, LOST AN ARM  
TO A LETTER BOMB. ALTHOUGH THE INVESTIGATION  
INTO THE LETTER BOMBING HAS MADE LITTLE  
PROGRESS, NEWSMAGAZINES HAVE PROFILED MEJIA LEON  
AS THE PRIME SUSPECT.

3. (U) FOUR OF THE FIVE JUDGES THAT ANNULLED  
THE WRIT OF HABEAS CORPUS FOR CASTILLO PAEZ ARE  
ALSO SITTING IN JUDGMENT ON THE GARCIA CASE.  
THEY ARE ROGER SALAS GAMBOA, THE INVESTIGATING  
JUDGE AND THE THREE MEMBERS OF THE SPECIAL  
TRIBUNAL, FREDERICO PERALTA, CARLOS ESPINOZA AND  
NESTOR ANGULO. SALAS RULED ON DECEMBER 3 THAT  
THERE WAS INSUFFICIENT EVIDENCE AGAINST GARCIA  
TO PURSUE THE CASE. THE THREE MEMBERS OF THE  
SPECIAL TRIBUNAL WILL RULE ON SALAS' DECISION TO  
DISMISS CHARGES AGAINST GARCIA (REF C). (THE  
FIFTH JUSTICE INVOLVED IN THE PRESENT  
CONGRESSIONAL ACTION IS HORACIO VALLADARES.)  
THESE FIVE JUDGES -- THREE OF WHOM MUST SUSTAIN  
OR OVERRULE THEIR FOURTH COLLEAGUE'S PRIOR  
DECISION IN GARCIA'S FAVOR -- ARE ACCUSED IN THE  
CASTILLO CASE OF FAILURE TO PERFORM THEIR  
DUTIES, LYING AND DELAYING JUSTICE.

4. (U) THE MOTION TO OPEN THE DEBATE ON THE  
"DERELICTION OF DUTY" ACCUSATION PASSED THE  
CHAMBER BY A LARGE MAJORITY WITH THE SUPPORT OF  
BOTH THE RIGHT AND THE LEFT. ONLY APRA REMAINED  
UNITED AGAINST THE ACCUSATION. THE PROCESS TO  
BE APPLIED AGAINST THESE JUDGES IS IDENTICAL TO

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THAT ALREADY FOLLOWED IN THE GARCIA CASE. WITH THE CONGRESS GOING OUT OF SESSION ON DECEMBER 15; IT IS IMPOSSIBLE FOR MUCH TO HAPPEN ON THE CASE UNTIL MAY OR JUNE 1992. IT IS LIKELY THAT IF THE CASE IS PURSUED THE JUDGES WOULD NOT BE SUSPENDED FROM OFFICE BY THE SENATE, AND SUBJECT TO TRIAL BY THEIR SUPREME COURT PEERS, UNTIL THE END OF 1992 AT THE EARLIEST.

5. (C) IT IS CLEAR TO EVERYONE THAT THE

ACCUSATION IS MOTIVATED MORE BY OUTRAGE OVER THE PRELIMINARY DISMISSAL OF THE CASE AGAINST GARCIA THAN BY CONCERN OVER THE CASTILLO CASE. A REPRESENTATIVE OF COMISEDH, THE HUMAN RIGHTS GROUP THAT ZUNIGA WORKED WITH, LAMENTED TO POLOFF THAT IT TOOK AN UNRELATED POLITICAL MOTIVATION TO GET ACTION IN THIS CASE. NONETHELESS IT IS A HOPEFUL SIGN THAT SOME ACTION HAS FINALLY BEEN INITIATED IN THE CASTILLO/ZUNIGA MATTER.

6. (C) COMMENT: THE OPENING OF THE CASE AGAINST THE JUDGES IS CLEARLY IN RETALIATION FOR SALAS' DECISION TO DROP THE GARCIA CHARGES AND A THREAT AGAINST THE OTHER THREE MEMBERS NOT TO SUSTAIN SALAS' DECISION. IT WILL BE INTERESTING TO SEE WHETHER THE THREAT HAS ANY EFFECT AND WHETHER THE CASE AGAINST THE JUDGES WILL BE DROPPED IF THE COURT PURSUES THE GARCIA CASE. MOST LIMA OBSERVERS CONTINUE TO BELIEVE THAT THE COURT SYSTEM IS SO HOPELESSLY CORRUPT AND PACKED WITH APRA SUPPORTERS THAT A JUDGMENT FOR GARCIA IS A FOREGONE CONCLUSION, HOWEVER, THE ATTORNEY GENERAL SPECULATED TO THE AMBASSADOR DECEMBER 7 THAT SALAS' DECISION WOULD BE OVERTURNED AND THE CASE AGAINST GARCIA RESUMED. QUAINTON##

ADMIN  
END OF MESSAGE

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