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WIKILEAKS

RELEASED CABLES FROM AMERICAN EMBASSY
IN MADRID

06/12/2010

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Reference ID	Created	Released	Classification	Origin
<u>04MADRID583</u>	2004-02-20 05:05	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L MADRID 000583

SIPDIS

E.O. 12958: DECL: 02/19/2014

TAGS: PTER KAWC PHUM PINR SP

SUBJECT: GUANTANAMO DETAINEES: SPANISH POLICE SEEK ACCESS

Classified By: Charge J. Robert Manzanares per 1.5 (b) and (d).

¶1. (C) The Spanish National Police (SNP) have officially requested via the Embassy that the USG authorize Spanish police access to interview two Guantanamo detainees. SNP seeks to develop information regarding the two detainees' training, recruitment and deployment into Afghanistan. The two detainees are:

Omar Amer Deghayes, ISN US9LY-00727-DP (Libyan)

Jamil Abdul Latif Elbanna, ISN US9JO-00905-DP (Palestinian)

¶2. (C) Judge Baltasar Garzon is leading the investigation into the al Qaeda cell arrested in Spain in November 2001. Garzon believes that cell leader Eddin Barakat Yarkas, aka Abu Dahdah, recruited these two individuals in Spain. Garzon has stressed to us that he faces tight deadlines for the prosecution of Barakat Yarkas and his cell members. Garzon has told us he must have all evidence in final form to present to the prosecutor no later than April 2004. For this reason, SNP investigators and Garzon stress that getting access to the above-named detainees as soon as possible is critical.

¶3. (SBU) On February 13, the Spanish Council of Ministers approved Judge Garzon's request to seek the extradition to Spain from Guantanamo of Deghayes and Elbanna (and a third detainee, Lahcen Ikassrien, a Moroccan). This decision took place on the same day that the USG transferred a Spanish national Guantanamo detainee to Spanish custody for prosecution, under Garzon's direction, as a member of the al Qaeda cell and a recruit of Barakat Yarkas.

MANZANARES

ID:	14530
Date:	2004-03-03 18:24:00
Origin:	<u>04MADRID736</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED
Dunno:	04STATE38125
Destination:	This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS SECTION 01 OF 03 MADRID 000736

SIPDIS

DEPT FOR EB/IPC WILSON, DEPT PLS PASS TO USTR BPECK, DOC
KSCHLEGELMILCH, USPTO JURBAN/DLASHLEY-JOHNSON

E.O. 12958: N/A

TAGS: KIPR, ETRD, SP

SUBJECT: SPECIAL 301: PROGRESS NOT PERFECTION

REF: A. STATE 38125

B. STATE 29549

C. MADRID 639

D. MADRID 606

E. MADRID 386

F. 03 MADRID 04259

G. 03 MADRID 04164

H. 03 MADRID 02481

1. SUMMARY: Despite the strong political will of government officials and the stepped up enforcement efforts of police, piracy continues to be a significant problem in Spain as pirates adapt their way of doing business to avoid police, to take advantage of legislative loopholes, and to better use the internet. While illegal software sales have hit a plateau and there has been minimal positive movement in the percentage of illegal CD sales, pirate DVD sales increased slightly. Enforcement efforts are impressive, with over 5 million music and sound recordings seized during raids. Police were successful in thwarting pirates during the prime holiday shopping season. There was also progress in the courts: Nike gained control of its trademark after a 14-year legal battle. The GOS revised its Penal Code to increase punishments for IP offenders, and has continued its efforts to train judges and provide consumer education on IP issues. Spain seems to have faced up to its piracy problem and is committed to apply the training and enforcement resources to stem the tide. In light of these efforts and our sense of GOS commitment to continue the fight, we recommend keeping Spain off the 301 watchlist this year. END SUMMARY

Overall IP Climate

2. MUSIC, VIDEOGAMES AND MOVIES: Industry and police contacts in Spain have told us that over the past year, their enforcement actions have yielded some success in deterring pirates and reducing street sales of CDs and DVDs.

Nonetheless, the problem continues to be significant --- estimates for CD piracy range between 20% and 30%. DVD piracy is estimated to be much lower. Moreover, pirates are adapting their methods and sales to thwart government and industry enforcement efforts. Sales of pirated CDs continue to be handled mostly by illegal immigrants who display their pirate CD wares on blankets ("mantas," the sellers are therefore called "manteros" in Spanish) on city sidewalks in shopping districts and in subway stations. Because police have cracked down on manteros, a few would-be manteros are now trading in blankets for backpacks to peddle pirate CDs. Some manteros and backpack sellers also carry DVDs. Fewer still sell videogames. More sophisticated pirates have moved on-line. Internet peer-to-peer networks are also on the rise. Industry representatives in Madrid have told us that street sales now concern them much less than the rise of internet piracy sales and illegal downloads.

3. SOFTWARE: Illegal software sales in Spain seem to have leveled off at about 49%. While this is a definite improvement over the 74% figure of 1995, there is still much work to be done. The Business Software Alliance (BSA) works with the GOS to increase awareness in small businesses (the main users of illegal software). In addition, police have been active in trying to combat retail sales of illegal software.

4. TRADEMARK ISSUES: In February 2004, after more than 14 years of court battles, Nike won a major victory in the Spanish Constitutional Court that once again allows the company to use its trademark (both the name and the swoosh) on apparel sold in Spain. In response to Nike's appeal of a negative 1999 Supreme Court ruling, the Spanish Constitutional Court sided with Nike, annulling the other court's decision. It returned the decision to the Supreme Court asking that it revise its decision based on the findings of Constitutional Court justices. Nike is hoping that the new Supreme Court ruling, expected to be issued within the next 12 months, will be fair and objective.

5. PHARMACEUTICAL PATENTS: Spain's pharmaceutical patent problem is a legacy of its old process patent law which was in effect until October 1992. From that point on, all pharmaceutical patents granted have been product patents. Pharmaceutical companies complain that non-innovative producers are able to easily obtain permission to produce "legal copies" of their process patented drugs if they make minor changes in the production process. Like other countries that have a recent history of process patents, this is a problem that only time will solve. For the next eight years the legacy of the old patent system will continue to irk pharmaceutical companies, but until all process patents are expired, we do not anticipate a significant change in the situation.

6. POLICE ENFORCEMENT EFFORTS: Police focus on and action against IP offenses, most notably pirated CDs, have increased over the past year. Combined total raids for national police, Guardia Civil and municipal police against music, videogame, and movie pirates and sellers exceed 10,000 in 2003. Over 5 million movie and sound recordings were seized.

Police are frustrated that legislative loopholes, illegal immigrant status of some of those apprehended, and uneven and slow judicial decisions undermine some of their efforts. Our police contacts believe their effectiveness will be enhanced when the revised Penal Code goes into effect later this year (see para 8). In addition to raiding production facilities, police are also making headway in getting "manteros" off the street. Year 2003 police interventions in Spain's piracy focal point, Madrid, surpassed double the number witnessed in 2002. The Madrid municipal police force added extra officers at the end of the year specifically to deter manteros during the peak holiday and New Year shopping season. In Barcelona, frequent raids on a market renowned as a center for pirated software has reduced by half the sales of pirated programs. National police and Guardia Civil are especially equipped and increasing their work to combat on-line piracy.

7. EDUCATION EFFORTS: Last year Spain's Interministerial Anti-Piracy Commission and the Consejo Superior Judicial (Spanish administrative body which oversees the courts) signed an agreement to train judges on IP issues. The two bodies will collaborate on two training courses, in April and October, to train 40 to 45 judges each time. More importantly, the contents of each course will be published and distributed to Spanish judges throughout Spain. The Copyright Office at the Ministry of Culture is also working on an education campaign targeting children between 12 and 18 to explain the production process and manpower that goes into making copyright products. The Congreso de los Diputados (the lower house of Spanish Parliament) established a parliamentary sub-committee to propose actions that should be taken to protect IP. At year-end 2003, the sub-committee published a set of recommendations directed at the Spanish government bureaucracy, law enforcement agencies, and Spanish society as a whole, to send a clear signal of the importance of IP protection.

8. PENAL CODE REFORM: On November 25, 2003, the GOS modified its Penal Code to reinforce intellectual and industrial property protection. The revised Spanish Penal Code increases the punishments for crimes against IP infringements, especially for repeat offenders. It will enter into force on October 1, 2004.

Ongoing Areas of Review

9. OPTICAL MEDIA PIRACY REGULATIONS: Article 25 of Spain's IP legislation establishes a tax on optical manufacturing equipment; operators are required to apply for licenses. There is no legislation requiring that SID (source identification) codes be used on locally manufactured CDs. Despite this however, 12 out of 13 Spanish compact disc manufacturers have signed SID accords with Phillips and IFPI.

10. USE/PROCUREMENT OF GOVERNMENT SOFTWARE: As previously reported, in 2000 the GOS published guidelines entitled "The Intellectual Property of Software Programs." These guidelines are for government ministries and outline measures, recommendations and good practices for acquiring and using software. The guidelines have been explained in

workshops and are widely available to Spanish government officials, including on the internet.

11. TRIPS COMPLIANCE: The GOS counts itself in complete compliance with TRIPS since 1997.

12. ENFORCEMENT: See para 6 above.

13. COMMENT: In our 301 cable last year we reported that the Spanish government had finally faced up to the magnitude of its piracy problem and was making good faith efforts to combat it. Since then, GOS officials in various ministries have continued their work on the issue and the various domestic police forces have been exceptional in the quantity and scope of their efforts to roll back IP piracy in Spain. The passage of the revised Penal Code also bodes well for continued progress in the fight against pirates. Despite all of these and other abovementioned efforts, the piracy problem in Spain continues to be significant. It is our judgment that Spanish authorities are aware of the problem and have the political will to fight it. But it will take time. We believe Spain should remain off the Special 301 list. Spain's inclusion on the list will not hasten its progress and may only serve to dampen rather than encourage enthusiasm to take action as a new government takes the reins in a few months. At present our GOS IP contacts are receptive and willing to take our suggestions and listen to our concerns. We will continue to work with them and to monitor Spain's progress and provide assistance and information whenever possible -- and place the fight against IP pirates at the top of our agenda with the responsible officials in the next Spanish government.

ARGYROS

Reference ID	Created	Released	Classification	Origin
<u>04MADRID2215</u>	2004-06-14 12:12	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 MADRID 002215

SIPDIS

E.O. 12958: DECL: 06/14/2014

TAGS: PGOV PREL PTER SP

SUBJECT: AZNAR KEPT UNDER WRAPS IN EU PARLIAMENT ELECTION
CAMPAIGN CENTERED ON IRAQ, US TIES

Classified By: Polcouns Kathleen Fitzpatrick, per 1.4 (b) and (d).

Summary

¶1. (C) Jose Maria Aznar did not participate in the Popular Party's campaign for the June 13 EU parliamentary election. With the Socialists making the war in Iraq and distancing Spanish foreign policy from the US their central campaign issues, Popular Party leaders decided that Aznar was too radioactive to help in the campaign. Aznar insiders tell us that Aznar recognized this as well, but is confident time will ultimately vindicate his policies. Many in the PP regarded Aznar's May visit to the US, which included a private meeting with President Bush, as inopportune. They believe the visit give the Socialists ammunition in their efforts to portray the PP as a tool of the US. Following his US visit, Aznar avoided the media and focused on presiding over the PP think tank (FAES) and learning English in preparation for speaking engagements. On June 13, the Popular Party succeeded in beating expectations and came within two points of the Socialists in the EU election. End Summary.

Aznar Radioactive

¶2. (C) Aznar's longtime associate and former State Secretary for Communication Alfredo Timmermans told us recently that Aznar's decision to play no public role in the June 13 EU parliament election campaign was his choice, but that it also reflected the preference of PP leaders. The Socialists (PSOE) sought a repeat of their March 14 surprise election victory and played up themes that had worked for them, notably opposition to the Iraq war and Aznar's close relations with the US. Timmermans said that Aznar was fully aware that he was politically radioactive and, as a result, kept a low profile. His only public activities were to appear at signings of new his book recounting his years in office. (Timmermans noted sales are going well and the book is now in its second printing.)

"Photo of the Azores"

¶3. (C) A Socialist refrain from the EU parliament election campaign was the need to correct "the photo of the Azores." To them, the March 2003 Azores summit stands for committing Spain to an Iraq conflict that the Spanish public wanted no part of and for allying with the US instead of France and Germany.

¶4. (C) For this reason, there was unease in the PP when Aznar visited the US in May 2004, only weeks after stepping down from office. While PP leaders stated that Aznar had a right to travel where he wished, many, including Aznar loyalists, felt that given the EU election Aznar should have postponed the trip until after June 13. Timmermans told us that many in the PP wanted Aznar to "stay home and say nothing." Timmermans said Aznar understood that he is, for the present, a divisive figure but that he is confident time will vindicate his policies toward Iraq and the US. Timmermans said Aznar was buoyed by the warm reception he received in the US and, in particular, by his meeting with President Bush. Timmermans contrasted this warmth with the reticence Aznar has encountered from some in the Popular Party since March 14.

Aznar's Messages to the US

¶5. (C) Timmermans noted that Aznar had expressed concern to President Bush that the March 11 Madrid terrorist attacks had sent a message to terrorists that they can influence elections. Aznar urged vigilance in advance of US elections. Aznar believes al Qaeda inspired terrorists might also target countries like Italy where public opinion is vulnerable. Timmermans said Aznar believes the US has to brace for continued bad news from Iraq and came away with the impression that some US observers may be too optimistic about the medium term outlook. Timmermans said an election defeat by President Bush in November would be read, rightly or wrongly, in Spain as a defeat for the Popular Party and would give the Socialists a boost.

¶6. (C) Timmermans said the PP, Aznar included, continues to be "astonished" by the chain of events from the March 11 terrorist attacks to surprise election defeat on March 14. Many Popular Party members, Timmermans said, blame Aznar's Iraq policy for the defeat and believe Aznar gambled with the party's future on Iraq and lost. Like other Spaniards (80 percent according to some polls), most PP members were not sorry to see the Spanish troops come home, Timmermans said.

¶7. (C) Timmermans underlined that Aznar remains unyielding in his beliefs. Aznar will continue to support the Iraq war and say publicly that the Madrid terrorist attacks on March 11 brought the Socialists to power. Timmermans (speaking before June 13) noted that President Zapatero is still in the honeymoon phase and thus the PSOE would have an important electoral advantage. Zapatero has not had to make any unpopular decisions and his one major decision) to pull the troops out) was highly popular. Timmermans said that all of Zapatero's decisions are taken with one idea in mind: doing what is popular.

Aznar's Future

¶8. (C) Aznar is confident that in the longer term, he will be vindicated, Timmermans said. However, the current period is a difficult one for the PP and for Aznar personally. In the coming year, Aznar intends to travel frequently to the US. While based in Spain, he will make speeches to US audiences and teach occasional seminars at Georgetown. Aznar is working hard on his English and is presiding over the Popular Party think tank, FAES. Timmermans said Aznar will make it a point to speak out in favor of the transatlantic link and the need for close relations with the United States.

June 13: PP Exceeds Expectations, On Road to Recovery

¶9. (C) Popular Party strategists told us in the run up to the June 13 election that the PP goal was to keep the race close. None said that they expected to win, but they did hope to cut the Socialist margin. Polling had given the Socialists a 6 to 9 point advantage. The June 13 result was far tighter: the Socialists won by only two points. PP leaders regard this as a relative victory. Jorge Moragas, PP Director for International Affairs, told us that the result at least succeeded in giving a "shock" to the over-confidence of the Socialists and is a signal the PP is on the road to recovery.

MANZANARES

ID:	19029
Date:	2004-07-23 08:24:00
Origin:	<u>04MADRID2804</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	04STATE154176
Destination:	This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L MADRID 002804

SIPDIS

SECDEF PLEASE PASS TO ODS: AJTORRES AND JCS: SYIKE

E.O. 12958: DECL: 07/22/2014

TAGS: PREL, SP, ODP

SUBJECT: SPAIN: LETTER FROM SECRETARY POWELL TO FM
MORATINOS

REF: STATE 154176

Classified By: CHARGE D'AFFAIRES J. ROBERT MANZANARES FOR REASONS 1.4
(
B) AND (D)

1. (C) Charge Manzanares July 22 delivered to acting foreign minister Bernardino Leon Secretary Powell's letter to FM Moratinos (Reftel). The Secretary's letter responded to Moratinos' letter of June 4 on the case of Spanish journalist Couso, who was killed in the Palestine Hotel incident in Iraq last year. Leon thanked Charge for the response, noting that the Moratinos letter had been sent in an attempt to respond to a request to the Spanish government from the Couso family. Leon expected no further action on this issue from the GOS.

2. (C) Charge took the opportunity to convey our concerns (using talking points in reftel) about the dormant, but possibly still pending, Spanish court case on the Couso incident, noting our desire to avoid a situation in which US soldiers could be indicted by a foreign court. In the event of any indictments, Charge urged the MFA to issue a strong "friend of the court" type of brief clearly expressing opposition to such a development. Leon was unaware of the pending court case, and undertook to look into the matter. He emphasized, however, the completely independent nature of the Spanish judiciary and the lack of ability of the government to influence decisions on court cases. Charge noted that if such indictments occurred, USG would go back to MFA to again raise the matter and urge a strong statement of opposition from the GOS.

MANZANARES

Reference ID	Created	Released	Classification	Origin
<u>05MADRID572</u>	2005-02-14 09:09	2010-12-02 12:12	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

This record is a partial extract of the original cable. The full text of the original cable is not available.
UNCLAS MADRID 000572

SIPDIS

SENSITIVE

DEPT FOR DS/DSS/P/DP, DS/DSS/P/PL, DS/DSS/ITA, DS/IP/EUR

E.O. 12958: N/A

TAGS: ASEC

SUBJECT: PERSONAL PROTECTION REQUEST FOR SPANISH
ANTI-TERRORISM JUDGE D. BALTASAR GARZON REAL

¶1. (SBU) RSO has received a letter from the Spanish Ministry of Interior, Secretary of State for Security, requesting that the Diplomatic Security Service provide protective security services for Spanish Anti-Terrorism Judge Baltasar Garzon. Judge Garzon will be a long-term guest lecturer at New York University's King Juan Carlos Center for nine months from February 28, 2005 until December 01, 2005. His classes will deal with terrorism and national security issues.

¶2. (SBU) Judge Garzon is considered a critical threat profile Judge due to his on-going oversight and involvement in highly-visible terrorism cases including the September 11, 2001 Trade Tower bombings as connected to the Moroccan Al-Qaida cell known as the Barakat Yarkas group.

¶3. (SBU) In the letter received, the Spanish Secretary of State for Security highlights what they consider to be the risks and considerations that come with the public exposure of Judge Garzon's work in New York City and requests a permanent security presence for him. The GOS is committed to provide two armed Spanish Police to Judge Garzon full time but believe that a U.S. law enforcement presence is essential for coordination and effectiveness.

¶4. (SBU) In discussions on February 11 with the Spanish Police Chief for Protective Service, Angel Quintana, the RSO explained that due to extreme demand on DSS manpower, it was unlikely that 2 DSS Agents could be provided full time, and that it was also unlikely that even a single agent could be dedicated for nine months to this detail. The RSO opined that the more likely scenario would be an accessible agent for coordination, communication and problem solving out of DP or PL.

¶5. (SBU) Due to the limited planning time (February 28 departure), RSO requests urgent consideration be given to this request with a rapid response to the RSO for the Spanish Protective Police travel and visa requirement planning, keeping the Spanish Embassy in Washington and the Spanish

Consulate in New York in the loop.
MANZANARES

ID:	43323
Date:	2005-10-21 15:56:00
Origin:	<u>05MADRID3694</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	
Destination:	This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L MADRID 003694

SIPDIS

E.O. 12958: DECL: 10/21/2015

TAGS: PREL, PGOV, SP, American - Spanish Relations

SUBJECT: SPANISH MINISTERS WORKING TO CHALLENGE ARREST
WARRANTS

Classified By: DCM Robert Manzanares for reasons 1.4 (b) & (d).

1. (C) SUMMARY. Soon after a Spanish judge announced arrest warrants on October 19 for three US soldiers associated with the 2003 death of a Spanish cameraman in Iraq, both the Justice Minister and the Foreign Minister reached out to Ambassador Aguirre to let him know that the GOS is doing everything in its power to challenge the Judge's decision. The chief Spanish prosecutor announced that he has contested the warrants, questioning the judge's jurisdiction over the case and citing procedural faults. FM Moratinos told the Ambassador that VP Fernandez de la Vega is also engaged and that the government supports challenging the warrants on procedural grounds, and then moving to appeal to higher courts if necessary. END SUMMARY.

2. (SBU) On October 19, Spanish Judge Santiago Pedraz of the National Court ordered the arrest and extradition of three US soldiers associated with the death of Spanish cameraman Jose Couso. Couso died in April 2003 when US forces shelled a Baghdad hotel. A subsequent CENTCOM investigation of the incident found that the US forces had acted properly and in accordance with their Rules of Engagement. CENTCOM made a comprehensive summary of its investigation available to the executive branch of the GOS in August 2003. USDOJ and DOD are still discussing possible responses to the judge's two MLAT requests. Judge Pedraz said that the US has not replied to his two MLAT requests for assistance with his investigation of the journalist's death. He said that he had to issue the international warrants because he has no other way to ensure the testimony of the accused soldiers. He cited the "nonexistent judicial cooperation" of US authorities as a reason for his action.

3. (C) Justice Minister Lopez Aguilar called the Ambassador on October 19 to tell him that the GOS will make every effort to challenge the judge's decision on technical grounds. FM Moratinos told the Ambassador in a separate call that Vice President Fernandez de la Vega is involved in the case. Moratinos said that if the judge fixes the technical flaws the Government would move to appeal. In public, both

ministers expressed "respect" for the decision of the independent judge. Justice Minister Aguilar pointed out that the order is not yet final because it can be appealed. He also said that the US and Spain cooperate closely on judicial issues related to terrorism and international crime issues.

4. (SBU) On October 20, Attorney General Candido Conde-Pumpido publicly announced that the prosecutors who practice before the National Court have challenged the warrant for lack of jurisdiction in the death of a Spanish citizen during a foreign war and the lack of a pre-existing indictment against the soldiers. Normally in Spain requests for extradition are only based on pre-existing arrest warrants

5. (C) COMMENT. Top ministers moved quickly to let us know that the Government is working to resolve this situation. The Government must act carefully as it tries to influence Spain's fiercely independent judiciary. In order to avoid aggravating the situation, GOS leaders must publicly show their respect for the independent workings of the courts (just as we've asked them to respect the independence of our courts in cases like Posada Carriles.) We continue to reiterate that this matter has been fully investigated, the government has been fully informed, and that the soldiers' actions were justified.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID293</u>	2006-02-03 14:02	2010-11-30 12:12	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

VZCZCXRO5433
PP RUEHAG RUEHDF RUEHIK RUEHLZ
DE RUEHMD #0293/01 0341458
ZNR UUUUU ZZH
P 031458Z FEB 06
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 8817
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUCNFB/FBI WASHDC PRIORITY
UNCLAS SECTION 01 OF 02 MADRID 000293

SIPDIS

SENSITIVE
SIPDIS

E.O. 12958: N/A
TAGS: PGOV PTER SP
SUBJECT: SPAIN: CHIEF PROSECUTOR FORCED TO QUIT

¶1. (U) Attorney General Candido Conde Pumpido forced the Chief Prosecutor of Spain's National Court, Eduardo Fungairino, to step down for alleged mismanagement of terrorism cases under his supervision. Fungairino, a highly-respected 26-year veteran of the National Court, will move to a position with the Supreme Court and retain a role in terrorism cases. Fungairino's deputy, Jesus Santos, will take over duties as Chief Prosecutor, at least on until a successor is named. Conde Pumpido remonstrated Fungairino for failing to secure Supreme Court confirmation of the sentences of al-Qa'ida members convicted in September 2005 (thus allowing two terrorists to exit prison after having served only half of their sentences) and for failing to push for the completion of the 2004 Madrid train bombing investigation. However, Fungairino's supporters claim that the Zapatero government removed Fungairino because of his strong opposition to a negotiated settlement with ETA, negotiations that may require the cooperation of the National Prosecutor's office.

¶2. (U) The story immediately developed political overtones, with the Socialist-leaning "El Pais" running lengthy descriptions of Fungairino's failings and incompetence and serving as a platform for Conde Pumpido's version of events. Conde Pumpido accused Fungairino of failing to consult with colleagues and of dominating judicial relations with the U.S. Department of Justice and with EU counterparts. The centrist "El Mundo," which is strongly anti-ETA, ran a headline declaring that Fungairino was removed for impeding government negotiations with ETA. "El Mundo" suggested that Conde Pumpido decided to dismiss Fungairino because he had blocked the banned ETA front group Batasuna from holding a

public meeting, despite hints from Zapatero that such a meeting might be allowed in the interest of steering ETA towards the political arena. The opposition Popular Party and center-right judicial organizations rose to Fungairino's defense, while center-left groups and Basque nationalist organizations hailed the dismissal.

//EARLY RELEASE OF CONVICTED TERRORISTS//

¶3. (U) The main failure cited by Conde Pumpido - the early release of convicted terrorists - is troubling, but responsibility for the issue rests with several actors. Under Spanish law, a detainee must be released after serving half their maximum prison term if the sentences have not been confirmed by the Supreme Court. The problem in this instance is that many of the detainees in the Barakat Yarkas case were held in pre-trial detention for nearly four years, time that counts towards their sentences. Since many of those convicted received jail terms of eight or fewer years (see full listing in para 5), the half-way point came nearly immediately after their September 2005 convictions, giving the notoriously slow Spanish legal system little time to win confirmation of the convictions by the Supreme Court. It was up to both the Prosecutor's office and the Supreme Court to shuttle the cases through, and they failed to do so in time to prevent the release of two al-Qa'ida cell members. The government is expected to move quickly now to prevent further releases.

//COMMENT//

¶4. (SBU) The Embassy has enjoyed a close, collaborative relationship with Fungairino for many years. While it is true that he sometimes seemed to have difficulty delegating responsibility, he was also seen as a key leader by many Spanish prosecutors and a brilliant legal strategist. It appears that his personal and political differences with Conde Pumpido were the main cause of his removal, though the inability to prevent the early release of the terrorist convicts is difficult to defend. Regardless of the political motives surrounding Fungairino's removal, his departure will hurt U.S.-Spain judicial cooperation, at least in the short term. Fungairino was a devoted anti-terrorism activist who pursued close cooperation with the USG and with EU allies in terrorism cases. One piece of good news is that Fungairino will reportedly remain a member of the U.S.-Spain Bilateral Counterterrorism Experts Working Group, where he has played a positive role in smoothing over conflicts generated by differences in the U.S. and Spanish judicial systems. Also, Jesus Santos, Fungairino's temporary replacement, is well and favorably known to the Embassy. However, this does not outweigh the loss of so valuable an interlocutor in the National Prosecutor's office.

//TERRORIST SENTENCES - POSSIBLE RELEASE DATES//

¶5. (U) Status of terrorists convicted in Barakat Yarkas case.
(NOTE: Half-way marks vary because pre-trial detention times

varied):

- Said Chedadi - 8 year sentence. Released November 17 after completing half of his sentence.
 - Mohamed Najib Chaib - 8 year sentence. Released January 20.
 - Imad Eddin Barakat Yarkas - 27 year sentence. Could be released in May 2015.
 - Osama Darra - 11 year sentence. Could be released in June 2007.
 - Jasem Mahboule - 11 year sentence. Could be released in June 2007.
 - Jose Luis Galan - 9 year sentence. Could be released in August 2006.
 - Abdulla Khayata Kattan - 9 year sentence. Could be released in July 2006.
 - Mohamed Zaher - 9 year sentence. Could be released in May 2006.
 - Abdalrahman Alarnot - 8 year sentence. Could be released in March 2008.
 - Mohamed Needl Acaid - 8 year sentence. Could be released in May 2006.
 - Sadik Meriziak - 8 year sentence. Could be released in September 2007.
 - Abdulaziz Benyaich - 8 year sentence. Could be released in November 2007.
 - Hassan al Hussein - 8 year sentence. Could be released in September 2007.
 - Taysir Alony - 7 year sentence. Could be released in March 2008.
 - Kamal Hadid Chaar - 7 year sentence. Could be released in November 2006.
 - Mohamed Ghaleb Kalaye Zouaydi - 9 year sentence. Could be released in October 2006.
 - Jamal Hussein Hussein - 7 year sentence. Could be released in April 2008.
 - Dris Chebli - 6 year sentence. Could be released in June 2006.
- AGUIRRE

ID:	57678
Date:	2006-03-22 17:33:00
Origin:	<u>06MADRID722</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000722

SIPDIS

SIPDIS

E.O. 12958: DECL: 03/21/2016

TAGS: PREL, PGOV, SP

SUBJECT: VICE PRESIDENT ON SYRIA, AFRICA, BILATERAL
RELATIONS

REF: A. STATE 40904

B. STATE 41315

Classified By: DCM Bob Manzanares; reasons 1.4 (B) and (D).

1. (C) Summary. The Ambassador met with Vice President Maria Teresa Fernandez de la Vega on March 21 to review key bilateral issues and to relay USG messages on Syria, Venezuela, and Libya. On Syria, the Ambassador reviewed USG concerns regarding FM Moratinos' travel to Damascus and urged Spain to adhere to the international consensus on high-level contacts with Syria. Regarding Venezuela, the Ambassador said the USG was very concerned by reports that aircraft maker EADS CASA was looking for substitutes for U.S. components in order to complete its proposed sale of twelve planes to Venezuela. On Libya, the Ambassador noted news reports that Spain planned to refurbish four Chinook helicopters and explained that Libya remained on the U.S. list of State Sponsors of Terrorism, creating a legal barrier to transfers of U.S. military components to Libya. Vice President de la Vega thanked the Ambassador for the USG's response to a Spanish request for judicial cooperation in the case of Jose Couso, the Spanish news cameraman killed by U.S. fire during the takeover of Baghdad in 2003. De la Vega, who recently returned from a visit to Subsaharan Africa, stressed the growing importance of Africa for Spanish security and urged strong USG engagement in the region. This meeting

underscored the importance of maintaining a good channel to Vice President de la Vega, who clearly acts as the "CEO" of the Zapatero government. End Summary.

2. (C) The two-hour meeting at the Ambassador's residence was warm and relaxed throughout. Vice President de la Vega said she believed bilateral relations were on a positive track and underlined President Zapatero's strong interest in "normal" relations with the U.S. (NOTE: She did not raise the issue of high-level visits in either direction. END NOTE). She expressed the Spanish government's appreciation for the USG response to the Spanish request for judicial cooperation in the Jose Couso case. De la Vega said Attorney General Conde Pumpido had briefed her on the excellent cooperation he had enjoyed from the Embassy and U.S. authorities in helping bring this case to a conclusion. She suggested establishing regular meetings with the Ambassador every 45 days to ensure full communication on important issues.

//SYRIA//

3. (C) Vice President de la Vega asked for Ambassador's views on the state of bilateral relations. The Ambassador said that relations were good, but that there were some areas of concern on the U.S. side. In particular, there was significant concern regarding FM Moratinos' recent visit to Damascus and plans to make an official visit in April, which appeared to break an international consensus restricting high-level exchanges with the Syrian government. The Ambassador reviewed REF A and B points and explained that the USG was providing its views on the planned visit to Syria at FM Moratinos' request. Vice President de la Vega said that there had been no change in Spanish policy towards Syria, but also said Moratinos had "good ideas" on how to alleviate tensions in the region. The Ambassador replied that, while the USG appreciated FM Moratinos' expertise and good intentions, his visit to Damascus sent the wrong message and undermined efforts to win Syrian cooperation with UNSC resolutions. He noted that the Embassy was seeking a meeting with Moratinos (who is on travel) in order to relay these views directly to him.

//ARMS SALES//

4. (C) Turning to Venezuela, the Ambassador said the USG was concerned by reports that Spanish aircraft maker EADS CASA planned to find substitutes for U.S. components in its aircraft in order to complete a sale of twelve planes to Venezuela. The Ambassador noted that he and other U.S. officials would attend the March 22-23 rollout of an EADS CASA model being produced for the U.S. Coast Guard; it would be unfortunate to have this positive deal overshadowed by an EADS CASA deal with Venezuela on which the USG had already made its views known. Vice President de la Vega did not respond to the Ambassador's comments on this issue.

5. (C) The Ambassador said press reports of plans for a large Spanish weapons sale to Libya had also caught the USG's attention, particularly reports that the plans included

refurbishment of four Chinook helicopters by the Spanish division of Eurocopter. The Ambassador explained that the USG and Libya were working towards an improved relationship, but that Libya remained on the list of State Sponsors of Terrorism, which created legal barriers to the transfer of U.S. military technology to Libya. Vice President de la Vega said she was not aware of a possible sale to Libya and urged the Ambassador to relay any concerns to Minister of Defense Bono.

//AFRICA//

6. (C) De la Vega reviewed her recent trip to Mozambique and Kenya, as well as her visit to a migrant holding facility in the Canary Islands. She said it was becoming ever more apparent that Africa would represent a significant security challenge for Spain for some time to come and that much needed to be done to improve social conditions in order to ease migration pressures. De la Vega urged strong USG engagement in the region. The Ambassador reviewed for the Vice President U.S. support for Africa through the Millennium Challenge Account and the Africa Growth and Opportunity Act, as well as USG funding to counter AIDS, malaria, and other health threats. De la Vega said there was room for increased U.S.-EU cooperation in this area.

//COMMENT//

7. (C) We remain impressed by Vice President de la Vega's ability to manage the broad range of domestic and international interests of the Zapatero government. She acts as the "CEO" of the administration, personally handling the most sensitive projects and carrying out the difficult job of maintaining internal discipline. De la Vega is a tough-minded, but reliable interlocutor and we are well served by strengthening our level of communication with her.

AGUIRRE

ID:	59803
Date:	2006-04-07 15:48:00
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Source:	Embassy Madrid
Classification:	CONFIDENTIAL
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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000857

SIPDIS

SIPDIS

E.O. 12958: DECL: 08/22/2015

TAGS: PGOV, PREL, SP

SUBJECT: SPAIN: ZAPATERO ANNOUNCES SURPRISE CHANGES TO
CABINET

MADRID 00000857 001.2 OF 002

Classified By: Deputy Chief of Mission J. Robert Manzanares; Reasons

1.

4 (B) and (D).

1. (SBU) Summary. In a surprise announcement April 7, President Jose Luis Rodriguez Zapatero named new Defense, Interior and Education Ministers. Jose Bono is out as Defense Minister, to be replaced by Jose Antonio Alonso who moves over from his post as Interior Minister. Current Socialist spokesman in Parliament and member of Zapatero's inner circle, Alfredo Perez Rubalcaba, will take over the Interior Ministry and Mercedes Cabrera Calvo-Sotelo will replace Maria Jesus San Segundo as Minister of Education. The cabinet changes are the first since Zapatero and the Socialist Party (PSOE) took office following the March 2004 elections. The Ambassador called Bono and Alonso to thank them for their work with the U.S. Bono expressed his

admiration for the U.S. and said he was uncertain what he would be doing next. Alonso said that had a good relationship with U.S. officials as Minister of Interior and was used to cooperating with the USG. Alonso also said the U.S. should expect "no negative surprises" from him as Minister of Defense and suggested that he and the Ambassador meet immediately after the Easter holidays for a comprehensive review of U.S.-Spain defense issues. The Ambassador was unable to reach Rubalcaba, but will speak with him as soon as possible to offer continued close counterterrorism communication. End Summary.

//THE ETA FACTOR//

2. (C) Embassy's initial analysis on the Interior and Defense Ministry changes is that Zapatero's ETA policy is the driving force, although there is some speculation that Bono himself asked to leave and this is a shuffle forced on Zapatero. Whatever the cause, Zapatero has put into place key allies as he pursues his strategy with ETA following the March 26 announcement of a ceasefire. Rubalcaba has been the brain trust on the ETA policy and putting him in place as Interior Minister solidifies his role and gives him the authority to devise and implement Zapatero's policies on ETA, while ensuring political control over police actions against ETA.

3. (C) Moving Alonso to Defense removes Bono -- a longtime rival of Zapatero. Bono has not been seen as favorable towards Zapatero's policies favoring increased powers for Spain's regions. This puts Alonso -- a close personal friend of Zapatero -- into a key position as Zapatero consolidates his political support and moves his ETA strategy forward. Zapatero's popularity has increased considerably and he likely feels he no longer needs to keep Bono close to him. However, free from the restraint that comes in being in government, Bono may be a wildcard for Zapatero on the political scene.

//CHANGES AT MOD//

4. (C) The change at the MOD is important for the US, given the extent of our Defense relationship with the GOS. While not necessarily in any "pro-US" camp, Alonso has been favorable to cooperation with the US on counter-terrorism. He has visited the US in his role as Interior Minister and has met with Attorney General Alberto Gonzales and FBI Director Robert Mueller -- both in Spain and in the US. The Ambassador has a cordial relationship with Alonso and the Embassy works well with his staff. These relationships could be helpful as Alonso assumes his new role at Defense.

5. (C) Moving Alonso to Defense will likely mean there will be other changes in the ministry as well, although it may take until June to see all the changes that could take place. A PSOE official in the Ministry told the Embassy that the military leadership is unlikely to be affected by the change. However, Alonso has been interested for quite some time in removing Civil Guard Director General Gomez Arruche, so Arruche's days may be numbered. Other sources tell us that Alberto Saiz, the head of the Spanish Intelligence Service (the CNI, which falls under the MOD) might be replaced, as he

was directly appointed by Bono and was considered a strong Bono ally.

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6. (C) Sources also said Bono has been "feeling uncomfortable" in the Defense Ministry for "a long time." Spanish media is reporting that Bono might be done with politics for good, but post thinks that unlikely. With Bono out of the picture, a PSOE advisor told the Embassy that the "Moratinos line on foreign policy has obtained a victory." Though Bono has portrayed himself and is widely seen as a "friend" of the US, his actions on Venezuela defense sales, the Spanish troop withdrawal from Iraq and other issues sometimes belie this image.

//CHANGES AT MOI//

7. (C) A Partido Popular (PP) advisor told the Embassy that Rubalcaba is unlikely to make many changes at Interior because many of "his people" are already in place. MFA Director General for North America and Europe, Jose Pons, told the DCM that one or two key Interior officials (such as Antonio Camacho, currently serving as Alonso's deputy) may be headed to Defense with Alonso. Rubalcaba is not known as a friend of the US; however, he may well see it in his interest to continue the CT cooperation with the US that was put in place by his predecessor. Rubalcaba is seen as smart and experienced and has the skills necessary to influence people. Tapping him for Minister of Interior is proof positive that Zapatero is serious about succeeding with ETA.

//PP REACTION//

8. (C) Popular Party leader Mariano Rajoy wasted little time in criticizing the selection of Rubalcaba as Interior Minister (stating bluntly that the PP "does not trust Rubalcaba") and lamenting Bono's departure. Rajoy's comments on Rubalcaba reflect Rubalcaba's reputation as a skilled, and highly partisan, political actor who has worked hard to outmaneuver and isolate the PP. Bono, on the other hand, is among the most conservative PSOE leaders so it is understandable that the PP would be sad to see him go. He agreed with the PP in opposing greater autonomy to the Catalan or Basque regions and was seen by the PP as a brake on Zapatero's readiness to deal with the regional governments. Interestingly, a PP think tank speculated that Alonso was moved to the MOD in part because Alonso had developed good relations with U.S. counterparts during his stint as Interior Minister. The think tank contrasted Bono's "strident positions within Spain and abroad" with Alonso's ability to inspire confidence both within Spain and with the USG.

//COMMENT//

9. (C) Comment: Zapatero has installed two of his closest allies into key positions in his cabinet. Neither one runs the risk of being seen as a political competitor of Zapatero

-- one of the problems that contributed to Bono's departure. Both Alonso and Rubalcaba will carry out Zapatero's strategy with ETA to the letter -- a strategy that is no doubt directed at winning the next national elections with an absolute majority. Political observers were impressed that Zapatero organized the cabinet reshuffle in complete secrecy. Clearly, Zapatero is using this cabinet shuffle, whatever the cause, to move swiftly to take advantage of recent victories and has consolidated his control over his government and the Socialist Party.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID934</u>	2006-04-17 17:05	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 04 MADRID 000934

SIPDIS

SIPDIS

FOR EUR/WE CLEMENTS AND HALL

E.O. 12958: DECL: 04/16/2016

TAGS: PGOV SP

SUBJECT: SPAIN'S OPPOSITION POPULAR PARTY: LOSING THE
BATTLE WITH THE GOVERNMENT

REF: A. MADRID 765

1B. MADRID 783

Classified By: Ambassador Eduardo Aguirre for reasons 1.4 (b) and (d).

11. (U) Summary. Two years after it lost in the dramatic elections of March 14, 2004 -- three days after the March 11 terrorist attacks -- Spain's main opposition party, the Partido Popular (PP) finds itself outmaneuvered and either isolated with radical nationalists or forced to collaborate with the Socialist government of Jose Luis Rodriguez Zapatero on the most important issues of Spanish domestic politics. Even when the governing PSOE (Socialist) party was losing ground in opinion polls, the statistics did not reflect any increase in popularity for the PP, only a fall in the government approval rating because of uncertainty about regional questions in Catalonia and the Basque Country. The recent ceasefire announcement by the Basque terrorist group ETA has raised the government's poll ratings significantly, and marks a monumental inflection point for the PP in its search for the critical swing votes at the center of the political spectrum. A combination of leadership and message problems has kept the PP from capturing the imagination of the Spanish electorate, along with a consistent underestimation of the political skill of the Zapatero government. It may take an internal revolution in the party or a significant recalibration of strategy for the PP to come back in the immediate future. End summary.

No to Everything

¶12. (C) Since losing the March 2004 elections, the Partido Popular, led by Mariano Rajoy and his team of veterans from the government of Jose Maria Aznar, has struggled to make headway against the ruling Socialist Party (PSOE) and the government of Jose Luis Rodriguez Zapatero. Blaming the PP loss on the March 11 train bombings and the evil machinations of the Socialists, Embassy PP contacts have consistently seemed to think that their election loss was really a mistake, a massive "misunderstanding" on the part of the electorate, ignoring the very real issues voters disagreed with them on: the war in Iraq -- which 90% of Spaniards opposed -- and, importantly, the Aznar government's handling of the March 11 attacks. The party has spent the last two years trying to win support by harassing the Zapatero government on everything it does (including when it is cooperating with the USG).

¶13. (C) PP contacts have told us that their party strategy has been to attack the government at every turn. These attacks made ideological sense when the PP criticized the government on issues such as gay marriage, education reform (reducing the influence of the Catholic Church) or even in opposing GOS policy on Cuba and Venezuela. However, the PP also chose to take the government to task over Spanish military presence in Afghanistan and the participation of the Spanish frigate Alvaro Basan in the US Theodore Roosevelt battle group in the Persian Gulf, policies of this government which support US goals. The PP's attacks on these policies were therefore inconsistent with their own stated aims.

The Hook

¶14. (U) According to numerous public opinion polls, the PP made little or no dent (beyond its own base) in the government's popularity with its attack strategy, until a truly divisive issue came about: the reform of the Catalan Autonomy Statute ("Estatut" in the Catalan language). As the Catalans tried to declare in the legal document defining their relations with Madrid that they constitute a "nation," many Spaniards wanted to know why the government seemed to be letting them pull out of the Spanish nation they supposedly already belonged to. In addition, the new Estatut was to give Catalonia broad fiscal independence, beyond what any other region of Spain had ever been granted. While the issue of the Estatut did not worry all Spaniards, enough were concerned that government approval ratings began to fall. This was exacerbated last autumn by floods of Sub-Saharan would-be immigrants charging Spanish borders at Ceuta and Melilla, as well as by speculation that the Socialist government was holding talks with Basque terrorist group ETA.

¶15. (U) The Estatut, immigration and terrorism concerns gave the PP the hook it needed to be able to craft a message that might help it benefit from the government's falling popularity. Rajoy, Catalan PP leader Josep Pique, and

national leaders such as PP Secretary General Angel Acebes and Parliamentary Spokesman Eduardo Zaplana began speaking of national unity, equality for all Spaniards (in other words, no special privileges for Catalans and Basques), and joining together to put forth a strong face internationally (harkening back to the Aznar days, when the PP says Spain had more prestige both within the European Union as well as on the wider international stage). Nonetheless, while government popularity continued to fall, the PP did not pick up any support for itself with this message. And now, the ETA ceasefire has diminished public concerns about negotiating with the Basque group, and raised Zapatero's poll numbers substantially, by as much as eight percentage points in one poll.

¶6. (C) Interestingly, PP leaders do not seem persuaded of the need to change the message, influence the poll numbers or attract more swing voters. Zaplana told the Ambassador on March 29 that the PP base would likely carry the party in any future elections (once again reflecting the PP belief that the 2004 loss was a one-off fluke), and that it was important to take care of that base. In a meeting with the Ambassador, Acebes explained that the PP's platform was one of Spanish unity, stable public administration, and a solid economic plan. The PP claims repeatedly that this platform is one of principle, whose correctness will be recognized in time by the electorate. Meanwhile, it continues to paint a picture of gloom and doom for the country under the Zapatero, with Aznar claiming that the "Balkanization of Spain" is near, with an independent Catalonia and Basque Country. It is true that the message and apocalyptic image rally the PP base Zaplana spoke of, a base that is somewhat larger than PSOE's, and most non-PP Spaniards certainly do not want to see the break up of Spain. Nevertheless, the Socialists' poll numbers rise.

Leadership

¶7. (C) A key reason the PP was not able to capitalize on the PSOE poll decline is its top leadership, with personalities ranging from lackluster to radioactive. The principal leaders of the PP were all close to former President Jose Maria Aznar, and are closely associated with the Aznar era. During the 2004 elections, before the March 11 attacks, association with Aznar was a positive, given the President's popularity. His former Vice President Mariano Rajoy was expected to sweep to victory as leader of the party. But since the attacks, the team has been tainted by the Aznar government's handling of the aftermath of the March 11 bombings, when it claimed that Basque terrorist group ETA was responsible and appeared to keep information on Islamist involvement from the public.

¶10. (C) Rajoy is generally considered a competent and intelligent leader, but not especially charismatic. Acebes, who was Interior Minister in March 2004, is viewed in a particularly negative light because of his direct involvement in the handling of the attacks. Zaplana is also closely identified with the Aznar legacy, and is often criticized for his very conservative stance on most issues (he recently commented in a congressional debate on Vice President Maria

Teresa Fernandez de la Vega's wardrobe choices, to feminist indignation). (See reftel A for more on Acebes and Zaplana.)

¶9. (C) And then there is the ever-present former president, Jose Maria Aznar, who carries only a ceremonial title in the Partido Popular, but who casts his large shadow over everything the party does (see reftel B). After an extremely successful eight years in office, during which the Spanish economy flourished and Spain's standing in the world increased substantially, Aznar stepped down as party leader and appointed Mariano Rajoy his successor. Because of his success, he is still enormously admired within the party. When Aznar enters a room full of PP activists, a hush falls over the crowd. When Aznar walked into a book presentation for PP Parliamentarian (and self-proclaimed "shadow Foreign Minister") Gustavo de Aristegui's latest book, "Jihad in Spain," Aristegui gave a spontaneous speech on how Aznar had been his inspiration. In his first meeting with Ambassador Aguirre on December 15, 2005, Aznar claimed that he and his think tank FAES were careful not to interfere in national political battles; yet, in reality, at every opportunity, Aznar leverages his past influence (including his access to high-level USG officials) to affect current political discourse. And because of his cult status within the party ranks, the current leadership of the party has difficulty setting the course.

Underestimating the Enemy

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¶10. (C) All of the leaders of the PP machine -- Rajoy, Acebes, and Zaplana -- as well as former President Aznar speak of President Jose Luis Rodriguez Zapatero with scorn and condescension. Zaplana told the Ambassador that Zapatero is full of himself and has too much confidence in his ability to maneuver politically, particularly in an election campaign. Aznar called him "weak and vacillating" (reftel B).

¶11. (C) In reality, while the question of whether Zapatero's policies are intelligent or correct is certainly open for discussion, it is clear that the government has outmaneuvered the opposition on the two most controversial issues of this parliamentary session: the Catalan Statute and the future of ETA. Zapatero united at the last moment with the centrist Catalan nationalist party Convergencia i Unio, working all night with party leader Artur Mas to hammer out an accord agreeable to both sides and passable in Parliament. The PP opposed the agreement, leaving it isolated in Parliament with the ultra-nationalist Catalan party ERC, the only two parties to vote against the text.

¶12. (C) After the PP spent months accusing the government of "negotiating with terrorists" by talking to ETA, the group announced a ceasefire, using some of the least demanding language ever seen in its communiques. Polls indicate that swing voters are turning toward the government, and around

64% of Spaniards say the government should look into the possibility of peace negotiations and the PP should join in that effort. The PP has found itself obligated to cooperate with Zapatero in pursuit of peace, with little hope of political gain. If the ceasefire turns out to be permanent, the Zapatero government will get the credit for peace. Yet if ETA begins demanding too much in negotiations and the PP turns against the process, it could be blamed for the failure. This supposedly weak president has managed completely to isolate the more politically experienced opposition on both issues. And if, as post suspects, Zapatero manages to keep negotiations with ETA going until after the general elections expected in early 2008 (or if he succeeds outright in bringing peace through negotiation), he will be difficult to defeat, given the continued strength of the economy and the prospect of the end of ETA after almost 50 years of existence.

Revolution?

¶13. (C) Given the rigid structure of political parties in Spain, barring internal party revolution, it is nearly impossible for politicians to come to leadership in a party without working their way through the ranks and spending years paying homage to their elders. An internal PP revolution is not impossible, however: if the party continues to underestimate the governing party and fails to put forth a strategy to win votes, future election losses -- perhaps in 2008 -- will force radical change in the leadership. In such a case, certainly Acebes and Zaplana would have to depart center stage, and probably most of the former ministers from the Aznar government.

¶14. (C) There are several PP personalities who would be well-positioned in the event of such a revolution. They are slightly more centrist on social issues, solidly conservative on economic issues, with wide cross-over appeal to PSOE voters. All have extensive and successful experience in public administration.

--Alberto Ruiz-Gallardon: Consistently one of the most popular politicians in Spain, according to opinion polls, the mayor of Madrid has nonetheless not been in the inner circle within his own party, and is despised by the far right wing of the PP. He has challenged party orthodoxy on several occasions, supporting non-consensus candidates for leadership positions and criticizing his party's time in government. After Madrid lost its bid to host the Olympic Games in 2012, when several PP politicians outrageously blamed the loss on the PSOE government's deteriorated relationship with the United States, Gallardon -- who had spearheaded the bid -- commented, "If anyone is to blame, it is me. Don't let anyone place the responsibility anywhere else; I assume it all." In his speech at the PP national convention in March 2006, he proposed that his party look at the possibility of "neutralizing the radical discourse... that is taking over, and to reinvent it using a moderating message to reassure the citizens... We need to fight for the things we need to fight for, but we cannot let dogmatic attitudes carry us away to

dogmatism. Our place is with the people, with their real

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concerns..." With statements such as these, Gallardon comes across to swing voters (and to many Socialists) as principled, rather than partisan. After eight years as President of the Madrid Region and now three years as mayor, he has extensive political and administrative experience. His controversial urban renewal plan for Madrid, which has caused great upheaval on the highways and in the subways of the city, is still a wildcard, as many Madrilenos (and Embassy employees) spend hours in traffic jams around construction sites all over the city. If the work comes out well, however, the renewal of Madrid could be a strong positive for Gallardon's political ambitions.

--Francisco Camps: Camps, anointed by Eduardo Zaplana, followed in his footsteps to become President of the Generalitat Valenciana (Valencia Region) and regional PP president. Since he was elected in 2003, he has fallen out with his former mentor and worked hard to forge his own political identity, both within the Generalitat and nationally. After he worked across parties to agree on a the reform of the Valencia Regional Statute in 2005, he has become the PP poster child for bipartisan cooperation, the party's proof on the national stage that it really can work with the opposition party. Though still relatively young, his national stature has grown substantially, and he seems a good candidate to move into the PP national leadership in the event of a major shake-up.

--Esperanza Aguirre: President of the Madrid Region as well as regional PP president, Aguirre has been very close to the current PP inner circle (and a sworn enemy of Gallardon), serving as Aznar's Education Minister during his first term, and President of the Senate during his second. Nonetheless, she retains a wider base and, because of her regional experience, a certain distance that would likely allow her to take on a leadership role in the party in a time of change, despite her ties to the old guard. She describes herself as a "neoliberal," but has advocated a certain pragmatism on social issues when dealing with the Zapatero government, for example describing the PP leadership's insistence in taking the new gay marriage law to the constitutional court as "politically inopportune." Because of her extensive political experience and national stature, she could be good transition leader in a redirected Partido Popular.

¶15. (C) All three of these politicians are expected to re-win their positions in regional and municipal elections coming up in 2007, consolidating Madrid and Valencia as PP strongholds. The current PP leadership hopes these elections will give the party the push it needs nationally to win national elections in 2008. In the two years left before the elections, there may yet be surprises that would give the PP a real advantage: if ETA negotiations break down, or if the strong Spanish economy falters, the PP could find its chance to take votes away from Zapatero. With peace on the horizon and a strong economy, however, on their current trajectory Zapatero and

PSOE look well-placed to win again, perhaps even with an increased majority. At that point, the PP would have to start looking at these regional leaders to take it in a new direction nationally.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID1914</u>	2006-07-28 11:11	2010-11-30 12:12	SECRET	Embassy Madrid

VZCZCXRO3816
PP RUEHAG
DE RUEHMD #1914/01 2091105
ZNY SSSSS ZZH
P 281105Z JUL 06
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 0384
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEHLA/AMCONSUL BARCELONA PRIORITY 1994
RUCNFB/FBI WASHDC PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
S E C R E T SECTION 01 OF 03 MADRID 001914

SIPDIS

SIPDIS

E.O. 12958: DECL: 07/25/2016
TAGS: PTER PGOV PREL SP
SUBJECT: COURT FREES "SPANISH TALIBAN"

REF: A. 2005 MADRID 3528
1B. TD-314/09169-05

MADRID 00001914 001.2 OF 003

Classified By: A/DCM Kathleen Fitzpatrick; reasons 1.4 (B) and (D)

¶1. (C) Summary. The Spanish Supreme Court announced July 24 that it had annulled the six-year prison sentence handed down in September by Spain's National Court against accused terrorist Hamed Abderrahaman Ahmed, known in the media as the "Spanish Taliban." Abderrahaman, a Spanish national captured in Afghanistan by U.S. forces and held at Guantanamo until being turned over to Spanish authorities in February 2004, was immediately released from prison. The Supreme Court found that Spanish prosecutors could not use any evidence collected during their interview with Abderrahaman while he was being held at Guantanamo under conditions the Court termed "impossible to explain, much less justify." The Court threw out other evidence collected against Abderrahaman prior to his capture in Afghanistan and determined that prosecutors had skewed Abderrahaman's testimony to incriminate him. This finding had an immediate effect on the case of Lahcen Ikassrien, a Moroccan national and former Guantanamo detainee transferred to Spanish custody in July 2005. Prosecutors announced their recommendation to release Ikassrien on bail while awaiting trial on terrorism charges, while Abderrahaman's attorney said he would sue the U.S. Government for suffering allegedly suffered by Abderrahaman during his incarceration in Guantanamo. Spanish officials involved in the Abderrahaman case expressed disappointment in his

release, but also said that he was not particularly dangerous and dismissed him as a threat. This ruling does not indicate a reduction in counter-terrorism cooperation by Spanish law enforcement officials, but the Supreme Court's decisions will clearly have to be taken into account as we pursue improved judicial cooperation with Spain. The Spanish judicial branch carefully guards its hard-won independence, meaning it will not shy away from rulings that cut across Spanish Government (or USG) objectives. End Summary.

//BACKGROUND//

¶2. (S) According to sentencing documents, Abderrahaman established contacts with al-Qa'ida elements in the Spanish enclave of Ceuta and, in August 2001, traveled to Afghanistan for religious and military training in Kandahar. When the U.S. invaded Afghanistan in the wake of the September 11 attacks, Abderrahaman fled to Pakistan, where he was reportedly captured by the Pakistani military, who turned him over to U.S. forces. Abderrahaman was transferred to Guantanamo, where he was held until he was turned over to Spanish authorities in February 2004 in response to a request by magistrate Baltasar Garzon, who wanted to investigate Abderrahaman in connection with the trial of al-Qa'ida cell leader Imad Eddin Barakat Yarkas. Under the terms of that transfer, Spanish authorities agreed to:

- Be prepared to detain, investigate, and prosecute Abderrahaman, while treating him humanely;
- Share with USG authorities any information developed during the investigation;
- Provide reasonable notice of any decision to release or transfer Abderrahaman;
- Conduct surveillance of Abderrahaman following his release, and share any relevant information with the U.S.; and,
- Provide U.S. officials access to Abderrahaman if necessary.

¶3. (S) Garzon released Abderrahaman on bail in July 2004, finding that Spanish National Police interrogations of Abderrahaman while he was being held in Guantanamo could not be used as evidence. However, the National Police had previous wiretap evidence linking Abderrahaman to Barakat Yarkas as well as what they viewed as incriminating statements by Abderrahaman to police investigators following his release from Guantanamo. In early 2005, a confidential police assessment shared with USG officials concluded that Abderrahaman had the "mental maturity of a 12-year-old," was "naive and foolish," and did not seem to comprehend the gravity of his detention in Guantanamo. But the report also noted Abderrahaman's consistent statements to Spanish police that he wanted to "go fight with the Chechens and kill Russians." (REF B). Police provided this information to prosecutors and to the National Court, which found

Abderrahaman guilty in September 2005 of "membership in a terrorist organization." The case was then automatically transferred to the Supreme Court to either overturn or confirm the sentence.

//SUPREME COURT THROWS OUT CONVICTION//

¶4. (U) The Supreme Court overturned Abderrahaman's conviction on the basis that the National Court had allowed prosecutors to use inadmissible evidence to establish Abderrahaman's guilt and that prosecutors had improperly translated Abderrahaman's incriminating testimony. Specifically, the Supreme Court found that testimony obtained by Spanish police investigators during the course of interviews of Abderrahaman in Guantanamo could not be used in court because the "interrogations, euphemistically called "interviews," took place under unequal circumstances because (the defendant) was in detention" at the time of the interrogations. Further, the Supreme Court finding stated that "although it is not for (this Court) to issue a pronouncement regarding the situation of those held in indefinite detention, we must state that, as Ahmed was held in detention under the authority of the U.S. military since he was turned over (to the U.S.) on an undetermined date, all information obtained under such conditions must be declared totally null and nonexistent." The Court did go on to pronounce its position on Guantanamo, criticizing the detention of "hundreds of people, among them Ahmed, without charges, without rights, without controls, and without limits," a situation the Court termed "impossible to explain, much less justify."

¶5. (U) Just as damaging to the prosecution's case was the Court's decision to throw out telephone intercepts incriminating Abderrahaman obtained during the course of the Barakat Yarkas investigation and long before Abderrahaman's detention in Afghanistan. The judges found that the intercepts had been obtained improperly (NOTE: the Supreme Court had already ruled against allowing the intercepts during its review of the convictions of Barakat Yarkas cell members). The Supreme Court also determined that prosecutors had improperly translated Abderrahaman's statements and had omitted exculpatory evidence, such as Abderrahaman's declaration that he did not belong to al-Qa'ida and had not received military training. The Court criticized prosecutors for omitting a document "signed in Guantanamo by Abderrahaman before being turned over to Spanish authorities," a document in which U.S. authorities allegedly acknowledged that Abderrahaman was not a member of al-Qa'ida. On this basis, the Supreme Court found that the case against Abderrahaman failed to meet the minimum standards established by the European Court of Human Rights for a finding of "guilty beyond a reasonable doubt."

¶6. (C) Legat contacted Eduardo Fungairino, currently the head of an anti-terrorism office assigned to the Supreme Court and formerly the chief of the National Prosecutor's office, on July 25 for his insights into the Abderrahaman decision. Fungairino (strictly protect) dismissed the Supreme Court decision as "facile and populist." He said that while he acknowledged errors on the part of National Court prosecutors

in the case (and the legal problems generated by the circumstances at Guantanamo), in his view the Supreme Court ignored evidence of Abderrahaman's terrorist training in Pakistan and Afghanistan, activities that are clearly criminal under Spanish law. Fungairino indicated that one consolation, in his view, was that Abderrahaman did not represent a serious threat, echoing police assessments that Abderrahaman was a pawn in events beyond his understanding (see para 3).

//ABDERRAHAMAN PLANS TO SUE USG//

¶7. (U) In a July 25 press conference organized by Abderrahaman attorney Marcos Garcia Montes, Abderrahaman told reporters that he hoped to gain employment as a truck driver and claimed that his vision had degraded so much during his detention in Guantanamo that he was unfit for other employment. Garcia Montes said that he planned to file a "multimillion dollar suit" against the U.S. Government for damages, including post-traumatic stress and vision loss on the part of his client. The attorney told reporters that Abderrahaman's suffering had been such that he could no longer recall specific elements of his detention in Guantanamo, nor of his time in Pakistan and Afghanistan. Abderrahaman roundly denied ever having been a terrorist and insisted that his prior references to himself as a "martyr" referred to his treatment in detention. Prompted by his

MADRID 00001914 003.2 OF 003

attorney, Abderrahaman related his alleged mistreatment in U.S. detention, including the presence of a powerful lightbulb in his cell that impeded sleep and threats that he would never see his family again. Abderrahaman said he planned to write a book about his experiences.

//IKASSRIEN ALSO TO BE RELEASED//

¶8. (U) Following the Supreme Court decision in the Abderrahaman case, National Court prosecutors announced that they would support the release on bail of Moroccan national Lahcen Ikassrien, who was transferred to Spain from Guantanamo in July 2005 and held in preventive detention since his arrival. This comes less than a month after prosecutors filed formal charges against Ikassrien, seeking an eight-year prison term on charges of membership in a terrorist organization. The case against Ikassrien is based on three police interviews with him when he was being held at Guantanamo (by the same investigators who interviewed Abderrahaman) and on telephone intercepts developed in the course of the Barakat Yarkas investigation, the same evidence thrown out in the Abderrahaman case. (NOTE: According to press reports, the Spanish police intercepts place Ikassrien in Istanbul, Turkey in November 2000 along with suspected terrorists Amer Azizi and Said Berraj. In a separate intercept, Ikassrien requested assistance with documentation from al-Qa'ida cell leader Barakat Yarkas). Prosecutors have maintained that Ikassrien's own testimony since his transfer from Guantanamo incriminates him since he has acknowledged traveling to Afghanistan to "collaborate with the Islamist regime." That is disputed by court observers who say that

Ikassrien's statements to the National Court have been substantially less incriminating than those of Abderrahaman

¶9. (U) Ikassrien's attorney has already homed in on Guantanamo as key to his client's defense, focusing on Ikassrien's alleged mistreatment while in US custody. The attorney's request claims that "while Ikassrien was in Guantanamo, he was gassed, beaten, mistreated, and insulted, and subject to repeated inspections, during which the military officials undertaking the inspections would damage or destroy (Ikassrien's) books, especially the Koran." Ikassrien's attorney also alleges that his client was forcibly injected with a substance that led to severe itching that continues to affect him.

//COMMENT//

¶10. (C) Spanish counter-terrorism legislation was designed over three decades to combat ETA, a group with a defined structure, doctrine, and modus operandi. Police, prosecutors, and magistrates working on investigations of the far more amorphous cells of Islamist extremist have struggled to develop evidence sufficient to meet the high threshold set by the Spanish Supreme Court. This was reflected in an earlier decision by the Supreme Court to reverse the convictions of several Barakat Yarkas cell members and to reduce Barakat Yarkas' sentence on the basis that prosecutors had not proved his connection to the September 11 attacks in the U.S. (USG observers of the trial noted that the evidence on the September 11 connection was indeed weak). Clearly, in the Abderrahaman case the Supreme Court was also eager to use this case as a platform to criticize U.S. detainee policies in Guantanamo. While this sentiment has not influenced Spanish police to reduce their close collaboration with the U.S. in fighting terrorism, we must take it into account as we pursue increased judicial cooperation with Spain in terrorism cases. The Spanish judiciary carefully guards its independence (a major achievement of the post-Franco era) and has not shied from taking decisions that cut across the objectives of the Spanish Government.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID1490</u>	2006-06-09 16:04	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO4064
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHMD #1490/01 1601646
ZNY CCCCC ZZH
P 091646Z JUN 06
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 9958
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEHAK/AMEMBASSY ANKARA PRIORITY 0234
RUEHBO/AMEMBASSY BOGOTA PRIORITY 4952
RUEHBR/AMEMBASSY BRASILIA PRIORITY 0422
RUEHBU/AMEMBASSY BUENOS AIRES PRIORITY 0272
RUEHCV/AMEMBASSY CARACAS PRIORITY 0936
RUEHDM/AMEMBASSY DAMASCUS PRIORITY 0314
RUEHLP/AMEMBASSY LA PAZ PRIORITY 1185
RUEHSG/AMEMBASSY SANTIAGO PRIORITY 0438
RUEHLA/AMCONSUL BARCELONA PRIORITY 1916
RUEHUB/USINT HAVANA PRIORITY 0121
RHEHNSC/NSC WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
C O N F I D E N T I A L SECTION 01 OF 03 MADRID 001490

SIPDIS

SIPDIS

E.O. 12958: DECL: 06/09/2016
TAGS: PREL PGOV SP
SUBJECT: AMBASSADOR'S MEETING WITH VICE PRESIDENT

MADRID 00001490 001.2 OF 003

Classified By: DCM Bob Manzanares; reason 1.4 (B) and (D).

¶1. (C) Summary. The Ambassador met with Vice President Maria Teresa Fernandez de la Vega on June 8 to review bilateral relations and to discuss regional issues of joint interest, including developments in Peru, Bolivia, Iran, Syria, and North Africa. Regarding the CIA flights issue, Vice President de la Vega said Spain's inclusion in the Council of Europe report had caught the Zapatero Government totally off guard and she insisted Spain had nothing to hide on the issue. She said the Spanish Government felt comfortable that it could contend with domestic concerns regarding CIA flights through Spain, asking only that the USG provide Spain any relevant information to avoid any surprises. De la Vega made a strong pitch for increased USG-Spanish collaboration on North Africa (NOTE: FM Moratinos will likely raise this during his June 19 meeting with the Secretary. END NOTE). On Iran, de la Vega agreed with the need to maintain a unified international voice on Iran's nuclear program, saying Javier Solana was the appropriate interlocutor with Tehran. She welcomed Alan Garcia's victory in Peru, but lamented that in Bolivia Evo Morales appeared to be under the direction of

the most negative leftist elements in his administration.
End Summary.

//BILATERAL RELATIONS IMPROVING//

¶2. (C) Vice President de la Vega said she was aware of FM Miguel Angel Moratinos' upcoming meeting with the Secretary, as well as MOD Alonso's June 8 meeting with Secretary Rumsfeld on the margins of the NATO ministerial. She expressed satisfaction with the improvements in the bilateral relationship over the last year. The Ambassador agreed that we had made progress, adding that there was much more that our countries could do together. The Ambassador congratulated the Zapatero Government for its handling of the thorny Catalan autonomy issue. De la Vega said that the Zapatero administration was convinced that the Catalan issue was nearing a successful conclusion and predicted that the June 18 referendum in the Catalan Region would go smoothly and result in public acceptance of a renegotiated autonomy statute. The Ambassador reviewed his plans to visit the Basque Region June 22-23, a visit focused on business issues, but also including a courtesy call on Basque Regional Government leader Juan Jose Ibarretxe. Vice President de la Vega expressed no concern regarding such a visit.

¶3. (C) The Ambassador informed de la Vega of the June 28-29 visit of Education Secretary Spellings, noting Secretary Spellings' strong background on foreign affairs and lengthy government career. He said that while he would not normally suggest Vice President de la Vega meet visiting cabinet officials, it could be worthwhile to arrange a brief meeting. De la Vega said she would welcome such a meeting if her schedule permitted.

//CIA FLIGHTS//

¶4. (C) The Ambassador said that FM Moratinos had recently advised him that Spain's National Court had accepted a case filed by a private individual alleging USG wrongdoing in Spain during the transit of Spanish airports by CIA aircraft. Moratinos indicated the Spanish Government's desire to give this issue as low a profile as possible, though, as a judicial case, the government had a limited capacity to influence the direction of the case. De la Vega said she was aware of FM Moratinos' communication on this issue and expressed confidence that the Zapatero Government could manage it with little difficulty. (NOTE: According to June 9 press reports, government prosecutors have expressed opposition to the National Court's hearing of a case in which there is no evidence of a crime having been committed. END NOTE).

¶5. (C) By contrast, she said, the Zapatero Government had been surprised by the Council of Europe report alleging that Spain "permitted or failed to investigate" the use of Mallorca as a staging point for the "illegal" transfer of individuals by the CIA. (NOTE: An MFA spokesperson roundly denied any involvement by Spain in the illegal transfer of

MADRID 00001490 002.2 OF 003

suspected terrorists. END NOTE). De la Vega said Spain was prepared to deal with this issue, but wanted to be certain that it had all the information available regarding the flights to avoid being caught unprepared. The Ambassador noted that we too had an interest in preserving our credibility and were careful to share whatever information we had and to avoid any actions that might create problems for the Spanish authorities. De la Vega emphasized that Spain had no objection to USG intelligence flights through Spanish territory; they simply wanted to be kept informed and, if necessary, to be able to demonstrate that they were exercising proper oversight of foreign aircraft passing through Spain.

//IRAN, SYRIA//

¶16. (C) The Ambassador recounted his last meeting with President Zapatero, during which Zapatero identified Iran as the greatest threat to peace in the Broader Middle East. The Ambassador said this was precisely the view of the USG and that this underscored the importance of the USG's historic decision to directly join the multilateral discussions with Iran. He said it was vital at this critical phase that Iran see a united international front, determined to prevent its production of nuclear weapons. Vice President de la Vega emphatically agreed, saying Javier Solana was the appropriate interlocutor to deliver a unified message to Iran. The Ambassador conveyed a similar message on the need to maintain the consensus limiting high level contacts with Syria in order to prevent Damascus from driving a wedge between allies. Vice President de la Vega agreed on this point as well.

//PERU, BOLIVIA, ARGENTINA//

¶17. (C) Vice President de la Vega expressed satisfaction with the "good news" of Alan Garcia's victory in Peru, but lamented that Bolivian President Evo Morales seemed to be under the sway of his extreme left Vice President. Without naming Venezuelan President Chavez, de la Vega indicated Spain's conviction that other "negative influences" were also at work in Bolivia. The Ambassador said that Chavez was certainly eager to exert influence, but that Castro was likely just as involved, though with more subtlety than Chavez. De la Vega said that one positive development resulting from Chavez' meddling was realization by Brazilian President Lula da Silva that Chavez represented a genuine threat to Brazilian interests in the region, just as Peruvian President-elect Garcia, and to a lesser extent Chilean President Bachelet, understood the nature of the threat.

¶18. (C) The Ambassador asked for Spain's view on whether Argentine President Kirchner was likewise growing wary of Chavez. De la Vega said that Kirchner was a special case, in that he felt a strong affinity towards both President Zapatero and Vice President de la Vega. She said she believed Spain could influence his actions in a positive direction and noted that he would be making a state visit to Spain in the near future.

//NORTH AFRICA//

¶9. (C) Turning to her previous meeting with the Ambassador, de la Vega recalled having urged the USG to increase collaboration with Spain in promoting stability in North Africa. She asked whether the Ambassador saw any chance of progress on this issue. The Ambassador said that the USG was actively considering various approaches on North Africa, in light of the stalemate on Western Sahara and other sources of tension. He suggested the Spanish Government present the USG and other interested parties a detailed explanation of how it intends to move forward on North Africa and recommend what others could do to promote such an initiative. (NOTE: Our sense is that FM Moratinos may raise this issue in his June 19 meeting with the Secretary. END NOTE).

//COMMENT//

¶10. (C) As with the Ambassador's last meeting with Vice President de la Vega in April, the atmosphere was relaxed and

MADRID 00001490 003.2 OF 003

cordial throughout. The key message being relayed by the Spanish Government through the nature and frequency of these meetings is that they want to put bilateral relations on an even keel. They do not use these encounters to press for a meeting between Presidents Bush and Zapatero, an objective they appear to have abandoned for the moment. Instead, the Zapatero Government seems content to use the Vice President's channel with the Ambassador to transmit where they see opportunities for cooperation (Africa, Latin America) and to assess the USG's view of the overall state of the bilateral relationship.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID2632</u>	2006-10-18 08:08	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO2521
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHMD #2632/01 2910840
ZNY CCCCC ZZH
P 180840Z OCT 06
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 1064
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEHBO/AMEMBASSY BOGOTA PRIORITY 5034
RUEHBU/AMEMBASSY BUENOS AIRES PRIORITY 0287
RUEHPE/AMEMBASSY LIMA PRIORITY 1848
RUEHME/AMEMBASSY MEXICO PRIORITY 0555
RUEHSG/AMEMBASSY SANTIAGO PRIORITY 0457
RUEHLA/AMCONSUL BARCELONA PRIORITY 2161
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0230
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 002632

SIPDIS

E.O. 12958: DECL: 10/18/2016
TAGS: PREL PGOV SP
SUBJECT: SPAIN: TOUR D'HORIZON WITH FORMER PRESIDENT AZNAR

REF: BARCELONA 148

MADRID 00002632 001.2 OF 002

Classified By: Amb. Eduardo A. Aguirre for reasons 1.4 (b) and (d)

¶1. (C) SUMMARY: The Ambassador hosted former President Jose Maria Aznar for a private lunch at his residence on October 16. President Aznar offered his opinions on the domestic political situation as well as the outlook in Latin America. He also told Ambassador of his satisfaction at seeing improved United States-Spain relations, despite the difficulties this presents to his party in opposition. He told the Ambassador that he fears the current government is presiding over the "Balkanization" of Spain. END SUMMARY.

¶2. (C) During their October 16 luncheon, former President Aznar told the Ambassador that he views with satisfaction the improving GOS relationship with the U.S. over the past year. Aznar said that, as a Spaniard, he accepts this as a positive development although it presents difficulties for his opposition Partido Popular (PP). (COMMENT: Maintaining the trans-Atlantic relationship has long been one of the PP's key platforms, and PP leaders have hammered Zapatero for upsetting ties with Washington. The PP has also criticized the Zapatero government for steps it has taken that are important to the U.S., such as the Spanish deployment to Afghanistan and Lebanon. While efforts to improve the bilateral relationship have eased the sting of this PP criticism, PP leaders apparently have viewed U.S.-Spain tensions as favorable to their interests. Aznar's comments

may reflect a new approach on this subject. We have told both the PP and the Socialist Party now in power to avoid using the U.S. in their political football, as this benefits neither Spanish nor U.S. interests. END COMMENT.)

//Argentina, Chile, Peru, Colombia, Mexico//

¶3. (C) Aznar told the Ambassador about his recent speaking tour in Latin America. He found that Argentina is increasingly turning inward and that internal politics will be the dominant force in Argentina for several years. In Chile, he told the Ambassador that President Bachelet is strongly influenced by her father's murder and her own torture during the Pinochet regime. Aznar said that these experiences are more profoundly shaping her executive decisions than he had previously believed. On Peru, Aznar expressed his belief that Alan Garcia is a "new man" who has cast aside the legacy of his previous administration and who is deeply committed to creating stability and economic opportunity. He also said that President Uribe appears very secure and established in Colombia. Aznar saw deep internal divisions in Mexico, but he noted that the U.S. border fence project is a unifying force of anti-American sentiment, to the detriment of U.S. relations with Mexico.

//ETA, Basque Country and Catalonia//

¶4. (C) Aznar said he fears that the GOS is presiding over the "Balkanization" of Spain, by allowing the autonomous communities greater independence. The PP feels that by allowing the 2006 Catalonia referendum on autonomy, the GOS has opened the floodgates to demands for greater local control. Worse, by entering into negotiations with ETA, the GOS has nearly legitimized the Basque self-determination movement. Aznar expressed his belief that the ongoing ETA negotiations will fail. He said that the only way to deal with ETA is as a criminal organization. The negotiations never had a chance for success, he said, because neither side ever had any room to maneuver or flexibility in their positions. According to Aznar, ETA will never abandon its demand for Basque self-determination, and the GOS can never agree to that demand.

¶5. (C) Adhering to the party line, Aznar expressed confidence that the PP would win a slim plurality in the approaching Catalonia regional election. NOTE: Polling indicates that the Catalan "middle of the road" CiU party is likely to win the regional election, though it may have to form a tripartite coalition to govern (reftel). The PP is not even assured a place in that coalition, as it currently is polling at around 10 percent in the region. END NOTE.

Visit Embassy Madrid's Classified Website;
<http://www.state.sgov.gov/p/eur/madrid/>

MADRID 00002632 002.2 OF 002

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID3104</u>	2006-12-28 14:02	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO5588
PP RUEHAG RUEHROV
DE RUEHMD #3104/01 3621401
ZNY CCCCC ZZH
P 281401Z DEC 06
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 1521
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RUEHBUL/AMEMBASSY KABUL PRIORITY 0058
RUEHSQ/AMEMBASSY SKOPJE PRIORITY 0128
RUEHLA/AMCONSUL BARCELONA PRIORITY 2314
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 003104

SIPDIS

SIPDIS

E.O. 12958: DECL: 12/27/2016
TAGS: PGOV PREL PTER SP
SUBJECT: SPAIN/CIA FLIGHTS: PLAINTIFFS DEMAND 13 USG
OFFICIALS BE NAMED AS SUSPECTS

REF: A. MADRID 02657

B. MADRID 02374

C. MADRID 01799

MADRID 00003104 001.2 OF 002

Classified By: DCM Hugo Llorens; reason 1.4 (D)

1. (U) The Mallorcan "Free Association of Attorneys" and a group of Mallorcan professionals filed a motion calling upon National Court Judge Ismael Moreno to name 13 presumed USG officials as suspects in connection with the transit of a CIA flight that stopped in Palma de Mallorca in January 2004. The attorney's association and the Mallorcan professionals are the plaintiffs in a suit alleging torture, kidnapping, and illegal detention on the part of the CIA (Refs A, B, and C). (NOTE: Under Spanish law, an association of individuals can file charges against a defendant in a criminal case even if they were not directly affected by the actions of the defendant. For example, the "Association of Victims of Terrorism" has routinely used this mechanism to press charges against figures connected to ETA terrorist acts. END NOTE).

2. (U) The plaintiffs drew the names from a report prepared by Spain's Civil Guard in 2005 regarding the occupants of a Boeing 737 with tail number N313P. The Civil Guard investigation was requested by the local court in Mallorca where the plaintiffs originally filed their case. The plaintiffs claim that this particular aircraft participated in the extraordinary rendition of German national Khaled el Masri in Macedonia after departing from Spanish territory. The names of the alleged occupants include:

- James Fairing
- Jason Franklin
- Michael Grady
- Lyle Edgard Lumsden III
- Eric Fair
- Bryam Charles
- Kirk James Bird
- Walter Richard Gressbore
- Patricia Rilroy
- Jane Payne
- James O'Hale
- John Decker
- Hector Lorenzo

¶3. (U) Press reports indicate that at least five of the persons named in the suit held U.S. diplomatic passports. In order for the plaintiff's demand to proceed, it must be supported by National Court Prosecutor Vicente Gonzalez Mota and approved by Judge Moreno. Gonzalez has not yet indicated whether he will support the plaintiff's request. He and Judge Moreno previously denied plaintiff's demands that the National Court request a report on the CIA flights from the U.S. Embassy in Madrid or other USG authorities. However, Judge Moreno has already entered into evidence the October 9 testimony of Khaled el Masri as well as telephone logs from the Gran Melia Victoria hotel and the Marriot Son Antem in Palma de Mallorca where the crew of the aircraft in question stayed during their stopovers in Mallorca. (NOTE: el Masri testified before the National Court that he was kidnapped and tortured by the CIA for five months in 2004, but acknowledged that could not identify the individuals who transported him from Macedonia to Afghanistan, nor could he demonstrate that the aircraft that transported him was the same the same aircraft identified in the Mallorca suit. END NOTE). The National Court has also requested the testimony of prosecutors from Milan and Munich regarding the kidnapping of el Masri in Macedonia and Egyptian national Abu Omar in Italy.

//COMMENT//

¶4. (C) It is possible that this case could eventually result in an official request to the USG by the National Court for information related to this aircraft and the personnel on the aircraft. While the Spanish Government has maintained that no crimes were committed in Spanish territory, the Spanish courts, including Judge Moreno, have asserted universal jurisdiction in cases involving torture, including in third countries. The National Court Prosecutor in this case, Vicente Gonzalez, is well known to us as Spain's liaison to the Embassy for the work of the Bilateral Counter Terrorism Experts Working Group. We find him to be an engaging and helpful colleague and anticipate that he will be sensitive to the Spanish Government's preference that this case not proceed. However, we have already seen in similar cases that Spanish judges fiercely guard their independence and are willing to break new ground on issues of jurisdiction. If Judge Moreno were to determine that there was sufficient

evidence that a crime had been committed and that perpetrators could be identified, he would forward the case to a panel of trial judges. We will continue to track and report on developments in this case.

AGUIRRE

ID:	92692
Date:	2007-01-16 17:09:00
Origin:	<u>07MADRID82</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED//FOR OFFICIAL USE ONLY
Dunno:	07MADRID26
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UNCLAS MADRID 000082

SIPDIS

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SENSITIVE

L/LEI FOR KEN PROPP

E.O. 12958: N/A
TAGS: PREL, MARR, SP
SUBJECT: SPAIN/COUSO CASE: JUDGE ISSUES DETENTION ORDER
AGAINST THREE U.S. SERVICEMEN

REF: A. MADRID 26

B. 2006 MADRID 3013
C. 2005 MADRID 4308

1. (U) National Court Examining Magistrate Santiago Pedraz issued international detention orders on January 16 against three U.S. servicemen, Sgt. Thomas Gibson, Captain Philip Wolford, and Lt. Col. Philip de Camp, accused of murder and violating international law in the death of Spanish cameraman Jose Couso during the April 2003 capture of Baghdad. This action, taken at the request of the plaintiffs in the case (the Couso family) effectively reopens the case following a December 2006 ruling by the Spanish Supreme Court that Spanish courts have jurisdiction to try the matter (REF A). As noted in REF A, this swift action by the magistrate was widely anticipated. However, Santiago Pedraz also agreed to a request from the plaintiffs to order the National Court prosecutors to prepare a report advising whether it would be legally permissible to "embargo" (i.e. freeze) assets in order compel compliance with the civil elements of the Couso

family's case. The National Prosecutors assigned to the case have the option to appeal this request from the Examining Magistrate, but since they carried out a previous instruction by the magistrate to file the international detention order and the Spanish Supreme Court found that the order should be issued (REF A), we anticipate that the prosecutors will comply shortly.

//EMBASSY FOLLOW UP//

2. (SBU) The Mission has been engaged with Spanish authorities on this issue at various levels, from the Ambassador with the Vice President and Interior Minister to action officers in contact with judicial officials. We intend to follow up with National Court Chief Prosecutor Javier Zaragoza as soon as possible to determine the full range of possibilities in this case. With regard to the issue of freezing of assets, there are conflicting reports as to whether the plaintiffs intend to pursue the assets of the accused or the USG's assets and we are actively seeking clarification on this point. Post will report as soon as we have collected additional information.

Aguirre

ID:	93036
Date:	2007-01-18 17:39:00
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Source:	Embassy Madrid
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UNCLAS MADRID 000101

SIPDIS

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SENSITIVE

L/LEI FOR KEN PROPP AND MARK KULISH

E.O. 12958: N/A
TAGS: PREL, MARR, SP
SUBJECT: SPAIN/COUSO CASE: MEETING WITH CHIEF PROSECUTOR

REF: A. MADRID 82
B. MADRID 26
C. 2005 MADRID 4308

1. (SBU) Embassy officials from Legat, the Consular Section, and the Political Section met with National Court Chief Prosecutor Javier Zaragoza on 1/18 to review developments in the Spanish court case charging three U.S. servicemen with murder and war crimes in the April 2003 death of Spanish cameraman Jose Couso during the takeover of Baghdad (REFS A and B). Poloff noted that they were not acting under instruction and simply wanted to meet informally with Zaragoza to review a case of great sensitivity to the USG. Emboffs noted the rapid decision of Examining Magistrate Santiago Pedraz to re-issue international detention orders against the three accused servicemen (REF B) and asked whether Spanish authorities intended to submit bilateral extradition requests to the U.S. as well for the three servicemen.

2. (SBU) Zaragoza said that he was not yet in a position to determine whether or not bilateral extradition requests would

be filed because he had not reviewed the case himself sufficiently to establish the best course of action (Zaragoza was not working at the National Court at the time the Couso case was reviewed and dismissed). He noted that the Couso case had moved swiftly at a time when he was preoccupied with the recent handover of ETA terrorist suspects to Spain by French authorities, which involved new legal ground for the Spanish authorities. However, Zaragoza said that he was aware of Spanish Attorney General Candido Conde Pumpido's interest and involvement in the case (REF C) and assured Emboffs that his office would carefully study all aspects of the case and would proceed at a deliberate pace. He said that the existence of a U.S. investigation of the incident was understood to be an important consideration, but left open the possibility that the Prosecutor's Office would seek additional information from USG authorities.

3. (SBU) The Consular Section's legal adviser asked Zaragoza whether he could confirm news reports that the Examining Magistrate had requested that his office prepare a report on whether U.S. assets could be embargoed (frozen) as part of a civil component of the Couso family's suit against the U.S. servicemen. Zaragoza scanned the Examining Magistrate's request and said that the magistrate's order merely transmitted this request by the plaintiffs; the National Prosecutor's office had to undertake a careful review of Spanish case law before responding to the request.

//COMMENT//

4. (SBU) Our objective in this initial meeting with Zaragoza was to sensitize him to the USG's concerns in this case, since he had no involvement in this case when it first came before the National Court. Zaragoza is a seasoned prosecutor with a clear understanding of the political implications of this case and we anticipate that he will proceed as carefully as he said he would. As soon as Zaragoza informs us how he intends to proceed, we will convey this information to interested Washington agencies. We will also follow up at higher levels in the Spanish Government to reinforce the implications of this case for bilateral relations and on international law.

Aguirre

ID:	94177
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Source:	Embassy Madrid
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C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000141

SIPDIS

SIPDIS

E.O. 12958: DECL: 01/24/2017

TAGS: PREL, MARR, SP

SUBJECT: SPAIN/COUSO CASE: AMBASSADOR MEET WITH ATTORNEY
GENERAL

REF: A. MADRID 101

B. MADRID 82

C. MADRID 26

D. 2006 MADRID 3013

E. 2005 MADRID 4308

Classified By: DCM Hugo Llorens; reasons 1.4 (B) and (D)

1. (C) Summary. The Ambassador and DCM met with Spanish Attorney General Candido Conde Pumpido on January 25 to review the USG's concerns with the direction of the Jose Couso case and to inquire how the Spanish Government plans to respond to recent judicial developments (REFS A, B, C, D). The Ambassador underscored that the primary motivation of his inquiry was to protect the rights of the three U.S. servicemen named in the Couso case, since the matter had already been properly investigated by the USG. Among other issues, the Ambassador raised a January 22 fax from the magistrate handling the Couso case to the Embassy's Consular Section requesting the Embassy's assistance in obtaining "complete identifying" information regarding the three U.S. servicemen named in the case. The magistrate's fax, which did not come in the required format for a Mutual Legal Assistance (MLAT) request, was leaked by "judicial sources"

just hours after it was sent to the Embassy. Press coverage indicates the magistrate's request was intended to help him win Interpol's agreement to publish the Spanish international detention order. The Ambassador told Conde Pumpido that the Embassy did not intend to respond to the magistrate's fax.

2. (C) Attorney General Conde Pumpido (strictly protect) emphasized that while there was nothing the Spanish Government could do to control the actions of the judiciary, the National Court prosecutors would continue to oppose the detention orders against the three U.S. servicemen, as well as any effort to embargo USG assets in connection with the case (REF B). Conde Pumpido warned that he expected the magistrate to continue to issue requests to the USG and to seek media coverage of his efforts, but said he expected the case to "go nowhere." He said he understood that the USG did not intend to respond to Spanish judicial requests with additional information, but suggested that even a perfunctory reply would undermine the magistrate's contention that the USG had been unresponsive to his requests. Conde Pumpido confirmed that the magistrate could not independently issue a bilateral request to the USG for the extradition of the three U.S. servicemen, since such a request would have to be approved by the Spanish Government. Separately, Legal Attache Madrid has learned of reluctance at Interpol to publish the Spanish detention order (Red Notice) for the U.S. servicemen named in the Couso case, based on Interpol provisions barring involvement in activities of a "political, military, religious, or racial character." Our sense is that there is still far to go in this matter and that the Spanish Government will search for a way to quietly terminate the case on technical grounds, while hoping to avoid a direct confrontation with the Couso family. End Summary.

//MAGISTRATE WORKING THE MEDIA//

3. (SBU) On the morning of January 22, the Locally Employed Legal Adviser in the Consular Section received a fax from National Court Examining Magistrate Santiago Pedraz requesting the Embassy's assistance in obtaining identifying data for the three servicemen named in the Couso case (a copy of this document was e-mailed to L and EUR/WE). It did not come through the official channels for an MLAT request and did not make clear precisely what information was being requested. Mission personnel opted not to respond to the fax, nor seek clarification from Judge Pedraz or request that he send his request through appropriate channels. Later on January 22, a press article in the wire service "Europa Press" citing judicial sources reported that Judge Pedraz had sent this request to the Embassy in order to help him meet an Interpol requirement that he provide "complete identifying data" for the accused in order for his Red Notice requests to be published by Interpol. Post's analysis is that Judge Pedraz sent this request without the expectation of a USG response, but with the intention of demonstrating in the media that he was acting expeditiously in this case.

4. (SBU) An unofficial translation of Judge Pedraz's fax follows:

MADRID 00000141 002 OF 003

BEGIN TEXT

Prior Correspondence 99/2003-10

To: Maria Angeles Sebastian, Legal Advisor to the Embassy of the United States of America in Spain

This Court is undertaking judicial actions to investigate the circumstances and suspects in the death of Spanish journalist Jose Couso Permuy on 8 April 2003 in Baghdad, (and) as part of this investigation it has been decided to send you this note in order to obtain through your channels the complete identification of the following U.S. servicemen:

- Sergeant THOMAS GIBSON, member of Company "A" of the 64th Armored Regiment, Third Armored Infantry Division of the United States Army;

- Captain PHILIP WOLFORD, in command of Company "A" Armored Unit of the 64th Armored Regiment, Third Armored Infantry Division of the United States Army;

- Lt. Colonel PHILIP DE CAMP, in command of the 64th Armored Regiment, Third Armored Infantry Division of the United States Army.

Madrid, Monday 22 January, 2007

Magistrate Santiago Pedraz Gomez

END TEXT.

//MEETING WITH ATTORNEY GENERAL//

5. (C) Attorney General Conde Pumpido accepted the Ambassador's invitation to meet informally on January 25 to discuss a range of bilateral issues. The Ambassador thanked Conde Pumpido for his visit in late 2005 (REF E) to suggest an approach that would allow the National Court to dismiss the case. He noted that it had been difficult for the USG to comply with the suggestion but that we respected Conde Pumpido's advice and were pleased by the dismissal of the case by the National Court. Now that the case had been remanded by the Spanish Supreme Court, the Ambassador said that he wanted to learn from Conde Pumpido the full range of possible outcomes in this case, with the understanding that the USG's primary motivation was the protection of the three U.S. servicemen unjustly accused of murder and war crimes. The Ambassador said that the USG report on the incident, which had been shared with the Spanish Government as early as August 2003, demonstrated that a thorough investigation had been undertaken by the USG and that the matter was closed. He said that the USG was also puzzled by Judge Pedraz's fax to the Consular Section and by its immediate release to the media, which suggested that Judge Pedraz did not intend to deal seriously with this sensitive case. The Ambassador said that the Embassy did not intend to respond to Judge Pedraz's fax, nor did we seek for his request to be reissued through

proper MLAT channels.

6. (C) Conde Pumpido emphasized that the Spanish judiciary was entirely independent and that the decision by the Supreme Court and the actions of Judge Pedraz were beyond the ability of the Spanish Government to control. The prosecutors now had no choice but to deal with the case. However, he said that the National Court prosecutors remained convinced that Spain did not have jurisdiction to try this case and that the elements of the case should not lead to a trial. He expressed the conviction that the case "would go nowhere." Conde Pumpido drew attention to the request by Judge Pedraz to the National Court prosecutors to examine the possibility of placing an embargo (freeze) on USG assets as part of any civil component to the Couso case. He said the prosecutors would oppose any such request to embargo USG assets. (COMMENT: This implies that the prosecutors would appeal Judge Pedraz's motions to the appellate section of the National Court, which is the body that dismissed the Couso case in March 2005. END COMMENT). With regard to the unusual fax from Judge Pedraz, Conde Pumpido said that it was his understanding that it was related to Pedraz's efforts to comply with Interpol's technical requirements- ut said h did nnt thifk0tHa4 the Nthonal Coert Orosecutors were even

MADRID 00000141 003.2 OF 003

aware of the fax.

7. (C) Conde Pumpido cautioned that his experience with Judge Pedraz led him to believe that the magistrate would continue to issue judicial requests and demands to the Embassy, and that he would probably continue dealing with the press. Conde Pumpido reiterated that there was nothing the Government could do to rein in Pedraz. He suggested that it might be advisable for the Embassy to transmit a perfunctory response to undermine the magistrate's contention that the USG was being unresponsive to Spanish judicial requests. Asked whether Pedraz had the ability to directly issue a bilateral request to the USG for the extradition of the three U.S. servicemen, Conde Pumpido said that Pedraz could not do so because any such request would have to go through the Government (COMMENT: Conde Pumpido did not guarantee that the Spanish Government would deny an extradition request, so we will remain attentive to this possibility. END COMMENT).

//RELUCTANCE BY INTERPOL TO ISSUE DETENTION NOTICE//

8. (C) Separately, Legat Madrid learned through informal inquiries that there is great reluctance at Interpol to publish the Red Notices for the three U.S. servicemen, as requested by Judge Pedraz. The Interpol contact said that the Secretary General was aware of the request and would do his best not to publish the request on the grounds that it would violate Article 3 of the Interpol Constitution and General Regulations, which states that "It is strictly forbidden for the Organization to undertake any intervention or activities of a political, military, religious, or racial character." He indicated that if the requests were to go forward, Interpol would bring together the Spanish and U.S.

representatives for consultations and that the matter would be voted upon by the Interpol Executive Committee, and then by the Interpol General Assembly. (COMMENT: This information is reassuring, but we remain concerned that Judge Pedraz could frame his request in a manner that makes it more difficult for Interpol to reject, or that he could simply go around Interpol and distribute the detention orders internationally on his own. END COMMENT).

//COMMENT//

9. (C) This appears to be the start of a lengthy process, and one that will be increasingly politically sensitive for the Zapatero Government. Spanish judicial officials do not/not believe this case will prosper based on the available evidence and they not want this case to obstruct increasing cooperation between USG and Spanish judicial officials. However, it is clear from discussions with both the Attorney General and the Chief Prosecutor of the National Court that the prosecutors not entirely certain how to proceed not that Spanish jurisdiction has been established by Spain's Supreme Court. Our sense is that they will continue to seek procedural/technical grounds for getting the case dismissed, without having to directly and publicly challenge the Couso family (which has already accused prosecutors of working to defend USG interests). Our objective remains the dismissal of this case so that the three U.S. defendants will no longer face prosecution for a matter that has already been investigated and brought to a conclusion by the USG.

Aguirre

Reference ID	Created	Released	Classification	Origin
<u>07MADRID173</u>	2007-02-01 17:05	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO5212

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P 011743Z FEB 07

FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC PRIORITY 1746

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEHBUL/AMEMBASSY KABUL PRIORITY 0062

RUEHLA/AMCONSUL BARCELONA PRIORITY 2404

RUCNFB/FBI WASHDC PRIORITY

RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

RUEAIIA/CIA WASHDC PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

RUEKJCS/SECDEF WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000173

SIPDIS

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E.O. 12958: DECL: 02/01/2017

TAGS: PREL PTER PINR SP

SUBJECT: SPAIN/CIA FLIGHTS: JUDGE ORDERS DECLASSIFICATION
OF INFO RELATED TO FLIGHTS

REF: A. 2006 MADRID 3104

1B. 2006 MADRID 2657

1C. 2006 MADRID 2374

1D. 2006 MADRID 1799

MADRID 00000173 001.2 OF 003

Classified By: DCM Hugo Llorens; Reasons 1.4 (B) and (D)

11. (C) Summary. National Court Examining Magistrate Ismael Moreno requested on January 31 that the Spanish Ministry of Defense and the National Intelligence Center (CNI) declassify any information related to the transit of CIA aircraft through Spanish territory, as well as any information indicating whether Spanish airports were used for the transfer of detainees in other countries. In a related action, Judge Moreno denied a motion by the plaintiffs to require the current and former heads of the CNI to testify in the case, as well as a second motion by the plaintiffs to name as suspects the 13 U.S. persons listed in the investigation. In an unusual demonstration of bipartisan accord, both the ruling Socialist (PSOE) and opposition Popular Party (PP) Parliamentarians expressed support for the declassification of the requested documents. The National Court prosecutor handling the CIA flights case told Legat that the prosecutors would not seek to block the request for declassified information because it was understood by Spanish

authorities that neither the CNI nor the MOD held any incriminating or sensitive information related to the flights. The prosecutor said that the release of the little information they did have would do no harm and said that the Spanish Government would not seek additional information from the USG related to this case. We are less concerned by the immediate importance of any declassified information from the CNI or MOD than by the apparent coordination between Judge Moreno in Spain and German investigators in the El Masri case. Spanish media reported January 31 and February 1 that German investigators used information from Spanish news sources and from the Spanish Civil Guard in ordering the detention of 13 "CIA members" on charges of abduction and bodily harm. The plaintiffs and extreme left political parties will work together to keep this issue on the front burner in Spain. End Summary.

//JUDGE REQUESTS DECLASSIFICATION OF OFFICIAL INFORMATION//

¶2. (U) Judge Moreno approved requests by the plaintiffs in the CIA flights case, the "Free Association of Attorneys" and a group of Mallorcan professionals, calling for the declassification of any information held by the CNI or the MOD related to the transit of alleged CIA aircraft through the airports of Tenerife, Barcelona, Malaga, Palma de Mallorca, and others. According to reports, the Spanish judicial investigation is focused on the following flights:

- Algiers to Palma to Skopje on January 22, 2004
- Guantanamo to Tenerife to Constanza, Romania on April 12, 2004, and
- Madrid to Luxor, Egypt on December 16, 2003.

In his request to the MOD, Judge Moreno asks for a report on "whether Spanish airports were used in the alleged events described in Council of Europe Report 10957 of June 12, 2006" related to the detentions of 12 alleged terrorists: Jaled El Masri, Ahmed Agiza, Mohammed al Zary, Hasam Usama, Mustafa Nasr (Abu Omar), Bisher al Rawi, Yamil El Banna, Masher Arar, Mohamed Bashmila, Salah Ali Qaru, Mohammed Zammar, and Binyam Mohammed.

¶3. (U) Judge Moreno denied motions by the plaintiffs demanding that the 13 U.S. persons accused by the plaintiffs of abduction and torture (REF A) be formally named as suspects. Moreno said that he would not do so because the identities of the crew of the Boeing 737, tail number N313P, had not been firmly established. He also denied a plaintiff's motion requiring the testimony in the case of CNI Director Alberto Saiz as well as his predecessor Jorge Dezcallar (brother of MFA Director General for Foreign Policy Rafael Dezcallar). This request by the plaintiffs stems from a November 28, 2001 meeting between President Bush and then-President Aznar, after which Aznar reportedly declared that "all of the mechanisms for cooperation in intelligence operations" were in place. Shortly thereafter, on December 11, the first alleged CIA flight through Spanish territory

took place.

¶4. (U) Judge Moreno also set aside a request by the plaintiffs for the testimony of the former Council of Europe human rights commissioner Alvaro Gil-Robles (on the grounds that Gil-Robles' reports on a detention center in Kosovo had not led to any conclusive police investigations) and the testimony of "El Pais" journalist Jose Maria Irujo, who has followed the CIA flights case as well as Islamic extremism in Spain. Judge Moreno indicated that his decisions on all of these issues (the naming of the 13 persons as suspects, requiring the testimony of CNI directors, and calling of additional witnesses) could be revisited by him or by a panel of trial judges if new information emerged to support the plaintiffs' case.

//BIPARTISAN POLITICAL SUPPORT FOR DECLASSIFICATION//

¶5. (U) Politicians weighed in quickly on the decision, with ruling center-left PSOE and opposition center-right PP Parliamentarians voicing their support for the declassification of the relevant MOD and CNI records. PSOE Foreign Relations Commission Spokesperson Fatima Aburto said all documents should be declassified that pointed to any "illegal act that may have taken place in Spain." Aburto said that the focus should be on whether the aircraft in question had "illegally detained persons" aboard and said that the Zapatero Government would review its files to determine whether any such incriminating information was available that could assist in the investigation. Aburto said that documents that information indicating that a USG aircraft had made a stopover in Spain and then participated in an illegal act in a third country "should not be declassified, because such actions would not constitute the commission of an illegal act in Spain." She stressed the PSOE's dedication to deal with this issue in a transparent manner and said that the results of Spanish Government inquiries to the USG on this matter did not indicate that any crime had been committed.

¶6. (U) PP Foreign Relations Commission Spokesperson Gustavo Aristegui said that he supported the declassification of any relevant documents if they demonstrated the commission of an illegal act and if their release did not undermine the counter-terrorist operations. Aristegui said that democratic countries could not "resort to any type of illegal methods in the fight against terrorism" since this would only strengthen the terrorists. He pointed to Guantanamo and Abu Ghraib as "errors that should not be repeated."

//PROSECUTOR DISCUSSES CIA FLIGHTS CASE WITH LEGAT//

¶7. (C) The National Court prosecutor handling the CIA flights case, Vicente Gonzalez Mota (strictly protect), indicated to Legat that the prosecutors do not intend to request information on this case from the Embassy or from the USG in general. He said that the National Court prosecutors did not impede Judge Moreno's request to declassify the MOD or CNI records because it was clear that those records did not

contain any incriminating or even particularly sensitive information. (NOTE: Vicente Gonzalez Mota is also the principal liaison to the Embassy for the Bilateral Counter Terrorism Experts Working Group. END NOTE). A January 31 news report indicates that Gonzalez Mota filed a judicial assistance request to Swiss authorities for any information (NFI) gathered by prosecutors in Bern that might have a bearing on the Spanish CIA flights investigation.

//CONFLUENCE OF SPANISH-GERMAN INVESTIGATIONS//

¶8. (C) Spanish media reported widely on the detention order filed by German prosecutor Christian Schmidt-Sommerfeld against "13 alleged CIA members" for involvement in the "abduction and bodily harm" of German citizen Haled El Masri. Press reports indicate that German investigators obtained the 13 names from the Spanish Civil Guard on September 27, 2006 during a visit to Spain by Munich prosecutor Martin Hoffman. The names had been included in a 2005 report ordered by a prosecutor in Palma de Mallorca. Some press reports indicated that while the names were presumed to be false, the Civil Guard had obtained photographs of at least three of the individuals from hotel records in Palma. It appears that Spanish daily "El Pais" also shared some of the names and other information it had gathered with German

MADRID 00000173 003.2 OF 003

investigators.

//COMMENT//

¶9. (C) Despite the absence of evidence of a crime, or even of a clear direction in the National Court's CIA flights investigation, it is clear that the plaintiffs (which in Spain now include attorneys from the extreme left wing United Left) plan to keep this issue on the front burner. However, the most worrisome element of this episode is the joint timing of the announcements by the German prosecutors and Examining Magistrate in the Spanish CIA flights investigation, timing that suggests that they are coordinating to advance the cases in their respective jurisdictions. This coordination among independent investigators will complicate our efforts to manage this case at a discreet government-to-government level. With regard to the internal political dynamics on this issue, both major parties will be at pains to demonstrate their commitment to the rule of law. In spite of its general pro-U.S. orientation, our experience suggests that the PP will not hesitate to capitalize on any indication that the Zapatero Government tolerated or deliberately ignored USG actions that could be interpreted as possible human rights violations, even if these revelations reflect badly on the USG. Aguirre

Reference ID	Created	Released	Classification	Origin
<u>07MADRID520</u>	2007-03-21 12:12	2010-11-30 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO1244
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RUEHGB/AMEMBASSY BAGHDAD PRIORITY 0157
RUEHLA/AMCONSUL BARCELONA PRIORITY 2546
RHEHNSC/NSC WASHDC PRIORITY
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000520

SIPDIS

SIPDIS

E.O. 12958: DECL: 03/20/2017
TAGS: PREL SP
SUBJECT: SPAIN/IRAQ: SOCIALISTS FIRE UP ANTI-WAR RHETORIC
FOR ELECTORAL SEASON

MADRID 00000520 001.2 OF 002

Classified By: DCM Hugo Llorens; reason 1.4 (B) and (D)

¶1. (C) Summary. In a volatile political climate leading up to regional/municipal elections in late May, the ruling Socialist Party (PSOE) and far left political allies have ramped up criticism of the war in Iraq, in part to counteract opposition Popular Party (PP) attacks on the Zapatero Government's controversial policies on the ETA issue. The Madrid Regional PSOE joined the far left "United Left" (IU), unions, and pacifist groups staged mass demonstrations against the war on March 17 - though the turnout was lower than for the anti-ETA march. On March 20, high profile magistrate Baltasar Garzon published an editorial in the left leaning "El Pais" saying that the time had arrived to investigate "criminal responsibility" for the war in Iraq, to include possible charges against former President Aznar, PM Blair, and President Bush (Spaniards frequently refer to the "Picture of the Azores" in 2003 of the three leaders as the moment in which the decision to go to war was made, thus linking Aznar not just with the Spanish troop deployment, but with full responsibility for the war). PSOE Secretary Jose Blanco said in a March 20 television interview that "someone must pay" for the war in Iraq, and that if someone could demonstrate criminal culpability on the part of political leaders, Blanco said he was "all for it." The Ambassador contacted National Security Adviser Carles Casajuana on March 21 to convey his deep concern regarding the direction and tenor of PSOE statements on Iraq, which could only harm bilateral relations. Casajuana discussed the

heated political context of the statements and said he expected them to abate soon, but assured the Ambassador that he would convey the Ambassador's concerns to President Zapatero immediately. The DCM is following up with PSOE Secretary Blanco to insist that the PSOE avoid dragging the

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USG into its domestic conflict with the PP. End summary.

//HEATED POLITICAL ENVIRONMENT//

¶2. (C) In the runup to May 27 regional and municipal elections, the political environment in Spain has become increasingly aggressive. The PP has not gained in most opinion polls, but its criticism of President Zapatero's controversial policies in the Basque Region has steadily eroded electoral support for the PSOE. In a show of strength, the PP led an anti-ETA, anti-Zapatero demonstration on March 10 in Madrid that drew at least 1 million people. The PSOE stormed back the following week, refocusing public attention on former President Aznar's unpopular decision to commit Spanish forces to the war in Iraq. The Madrid Region PSOE, joined by the PSOE Secretary for International Relations Elena Valenciano, organized a smaller mass rally on March 17 against the Iraq war and against the U.S. detention of enemy combatants at Guantanamo.

¶3. (U) The PSOE Parliamentary group joined the fray on March 20, negotiating a non-binding resolution with the far left IU that sharply criticized the "illegal" war in Iraq. The resolution passed with the unanimous support of all parties except the PP. The resolution condemned the "illegal, immoral, and unjust" decision to go to war in Iraq, for having "destabilized the region, and encouraged jihadist terrorism, which most affects the Iraqi people themselves." The resolution further states that the war was launched on false pretenses, "as has been recognized by President Bush and Prime Minister Blair... the (mismanagement) of the conflict has undermined the credibility of fundamental universal values, in the face of brutal realities at Abu Ghraib, Guantanamo, and the execution of Saddam Hussein." (NOTE: The PSOE version of the resolution removed IU language calling on the USG to hand over three U.S. servicemen accused of killing Spanish TV cameraman Jose Couso. END NOTE).

//GARZON, PSOE LEADER WEIGH IN//

¶4. (U) Judge Garzon published an editorial in the leading daily "El Pais" on March 20 that lambasted Aznar for declining to "heed UN inspectors... and instead lending himself, along with a few other leaders, to provide cover and support for this illegal action. Garzon went on to suggest that the time had come to study whether "criminal responsibility" should be assigned to Aznar, Prime Minister Blair, and President Bush. Spaniards frequently refer to the "Picture of the Azores" in 2003 of the three leaders as the moment in which the decision to go to war was made, thus linking Aznar not just with the Spanish troop deployment, but with full responsibility for the war. Late on March 20, a television news crew asked PSOE Secretary Jose Blanco (effectively the number two PSOE leader after Zapatero)

whether Aznar should be prosecuted for having involved Spain

MADRID 00000520 002.2 OF 002

in the war in Iraq. Blanco said that "someone must respond in the face of this horror, and if there are reasons and grounds from the legal point of view, then I would be all for it."

//AMBASSADOR CALLS PRESIDENTIAL ADVISER//

¶5. (C) The Ambassador contacted National Security Adviser Carles Casajuana on March 21 to express his concern regarding the increasingly shrill rhetoric on Iraq on the part of the ruling Socialist Party and its allies. The Ambassador said that the PSOE was dragging the USG into Spain's domestic political arena, a fact that could only harm bilateral relations. The Ambassador said that he was aware of the political context, but that he was running out of patience with unfair Government and PSOE statements regarding the U.S.

¶6. (C) Casajuana said that the political environment was "highly polarized" at the moment and blamed the PP for having stirred the pot on the ETA issue in an inflammatory manner. He acknowledged that the PSOE had judged that it could counter attack by resurfacing the Iraq issue and going after Aznar himself, particularly since the timing coincided with the fourth anniversary of the start of the war in Iraq. Casajuana said he understood that the "spillover" of the debate had impacted USG sensitivities, but said he expected the Iraq issue to run its course in the next couple of days. Casajuana said he would relay the Ambassador's concerns immediately to President Zapatero, emphasizing the Zapatero Government's desire to keep this issue under control. The Ambassador asked that President Zapatero act to tamp down the matter and avoid fueling anti-American sentiment as the political campaign continued.

¶7. (C) The DCM will follow up with a similar message to other officials and has requested meetings with PSOE Secretary Blanco and PSOE International Relations Secretary Elena Valenciano to ask that they leave the U.S. out of their political campaign.
Aguirre

Reference ID	Created	Released	Classification	Origin
<u>07MADRID546</u>	2007-03-23 17:05	2010-11-30 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO4139
PP RUEHAG RUEHROV
DE RUEHMD #0546 0821713
ZNY CCCCC ZZH
P 231713Z MAR 07
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 2152
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RUEHLA/AMCONSUL BARCELONA 2562
C O N F I D E N T I A L MADRID 000546

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E.O. 12958: DECL: 03/22/2017
TAGS: PREL PGOV SP
SUBJECT: GOS ACKNOWLEDGES US CONCERN ABOUT IRAQ WAR COMMENTS

REF: MADRID 520

Classified By: DCM Hugo Llorens for reasons 1.4 (b) & (d).

¶1. (C) The combination of the anniversary of the start of Operation Iraqi Freedom with the fervor of the Spanish campaign season led to a brief flurry of anti-US rhetoric from public figures associated with the government. As reported in reftel, magistrate Baltasar Garzon wrote an op-ed on March 20 that proposed an investigation into "criminal responsibility" for the war. Socialist Party (PSOE) secretary Jose Blanco hopped on the bandwagon in a TV

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interview that evening. The Ambassador immediately contacted National Security Adviser Casajuana to express concern. Casajuana promised to take the message to President Zapatero.

¶2. (C) Casajuana called the Ambassador late on the night of March 21 to follow up after speaking to Zapatero. He said that Zapatero understands the USG's concerns and will try to bring moderation to PSOE political operatives. Zapatero said that he appreciated the USG's efforts to stay out of the political arena and will work to enable the US to continue staying out. In short, the message was that Zapatero "will not add wood to the fire."

¶3. (C) DCM reiterated the USG's concerns on March 23 with MFA DG for North America Jose Pons and asked that the GOS work to keep the US out of the political crossfire. He told Pons that the USG understands that the political climate in Spain is highly polarized at the moment, but cautioned that continued statements on this issue by senior Spanish figures

would be viewed negatively by the USG. Pons said that the only official GOS statement on the issue had come from Foreign Minister Moratinos, who said on March 20 that only history will judge Iraq, thus emphasizing that the GOS would stay far away from legal judgments on the war. Pons emphasized that Blanco was speaking for the PSOE, not the government, and that Garzon, an independent magistrate, speaks only for himself. Pons said that he expects the issue to die down now that the anniversary has passed.

Aguirre

ID:	102848
Date:	2007-04-02 15:16:00
Origin:	<u>07MADRID596</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
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C O N F I D E N T I A L MADRID 000596

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DEPT FOR AMB. CLINT WILLIAMSON
EUR/PGI FOR NERISSA COOK
EUR/WE FOR GARY CLEMENTS AND ANGELA CERVETTI

E.O. 12958: DECL: 04/02/2017
TAGS: PREL, PTER, PHUM, PINR, KAWC, XG, SP
SUBJECT: SPAIN ON TAKING GUANTANAMO DETAINEES

REF: A. STATE 36991
B. STATE 37005

Classified By: DCM Hugo Llorens for reasons 1.4 (b) and (d)

(C) The DCM requested GOS assistance in resettling Guantanamo detainees during a meeting with Director General for North America and Europe Jose Maria PONS Irazazabal on March 29. Pons told the DCM that he would pass the request to Secretary of State for Foreign Policy Bernardino Leon. Speaking without instructions, Pons said that it would be "nearly impossible" to accept any Guantanamo detainees because of the political situation in Spain and the risk of adverse public opinion. Pons added that the GOS appreciated the U.S. efforts on Guantanamo and would probably be willing to help lobby other states over which Spain has influence to accept the individuals. He asked that the USG provide additional background information on any such individuals where Spanish assistance might be helpful in obtaining their resettlement in a third country. He reiterated that Spain would likely be unable to accept any detainees but viewed the initiative to release or transfer them from Guantanamo as a positive development.

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<http://www.state.sgov.gov/p/eur/madrid/>

Aguirre

D:	106159
Date:	2007-04-27 19:55:00
Origin:	<u>07MADRID800</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED//FOR OFFICIAL USE ONLY
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UNCLAS SECTION 01 OF 03 MADRID 000800

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EUR/WE FOR ALLEGRONE, CLEMENTS, AND CERVETTI
L/LEI FOR PROPP, KULISH, AND JOHNSON

E.O. 12958: N/A
TAGS: PREL, MARR, PGOV, SP
SUBJECT: SPAIN/COUSO CASE: JUDGE CHARGES US SERVICEMEN WITH
"CRIMES AGAINST INTERNATIONAL COMMUNITY"

REF: A. MADRID 215
B. MADRID 141
C. MADRID 101
D. MADRID 42
E. MADRID 26

MADRID 00000800 001.2 OF 003

1. (SBU) Summary. National Court Judge Santiago Pedraz issued formal charges of murder and "crimes against the international community" against the three US servicemen named in the legal case filed by family members of Spanish cameraman Jose Couso, who was killed by US fire during the capture of Baghdad in April 2003 (reftels). The most serious charges are punishable by 10-15 year imprisonment. According to press reports, Judge Pedraz transmitted a Mutual Legal Assistance (MLAT) Request to "US authorities" in connection with this charging document, with the MLAT evidently intended to advise the servicemen of these charges rather than

requesting action on the part of the USG to extradite them to Spain. The charging document indicates that if the three servicemen were brought before the court, they would be required to present a one million Euro bond to meet their potential civil liability in the case. The National Court prosecutors have three working days to appeal the charges; if there is no appeal, the case will move forward. The indictment is notable for the absence of any acknowledgement that there were ongoing military operations during the incident in Baghdad and for the use of alleged statements to the media by the defendants to justify the charges against them. The DCM contacted Julio Perez Hernandez, Secretary of State for Justice (equivalent to an Undersecretary) to discuss Pedraz's presentation of charges, noting the USG's respect for Spanish judicial independence, but also the USG's disappointment with this development in light of the extensive USG report on the incident which was shared Spanish authorities. Perez Hernandez said he would contact the National Court Chief Prosecutor to ascertain how the Prosecutor's Service would handle this case. Spanish law does not permit trial in absentia, so it is possible that the case could be archived if the defendants do not appear in a Spanish court. However, this is an unacceptable outcome since it will leave charges pending against the three servicemen; we will continue to press for dismissal of the charges. End Summary.

//THE CHARGES//

2. (SBU) In a document filed by the National Court the afternoon of April 27 (immediately prior to a major Spanish holiday weekend), Judge Pedraz formally charged US servicemen Lt. Colonel Philip de Camp, Captain Philip Welford, and Sergeant Thomas Gibson with "crimes against the international community" and "aggravated murder" in connection with the death of Spanish cameraman Jose Couso on April 8, 2003 during the US capture of Baghdad. The indictment was broken down into three parts: a background of the case, a discussion of the judicial aspects of the case, and the Judge's presentation of charges against the three servicemen. Post is preparing an informal translation of the indictment to be transmitted to the Department and to DOJ, but a summary of the document follows below:

-- Background:

Judge Pedraz discusses key elements of the invasion of Iraq and notes that the majority of the international media transferred from the "Rashid Hotel" to the "Palestine Hotel" at the recommendation of US forces. He then describes the killing of Couso from the impact of a tank round fired by a US tank situated 1.5 kilometers from the Palestine Hotel. According to the indictment, Lt. Colonel Philip de Camp of the 64th Armored Regiment, 3rd Infantry Division ordered Captain Philip Welford, commander of the unit that fired the tank round, to fire a round at the hotel. The shot was allegedly fired by the third serviceman, Sergeant Thomas Gibson. Judge Pedraz's charging document states that "The (US) military forces, including the three aforementioned individuals, knew that the Palestine Hotel was located in a civilian area, and that it was occupied by journalists. There is no evidence that a "sniper" nor of gunfire from any

part of the Palestine Hotel against (US) forces."

MADRID 00000800 002.2 OF 003

-- Judicial Discussion:

Judge Pedraz indicates that the events related in the summary could constitute a "violation against the international community," as described in Article 611.1 of the Spanish Penal Code, which mandates a 10-15 year prison term for those who, "without prejudice to the harm occasioned by their conduct, in the event of an armed conflict undertake or order to be undertaken indiscriminate or excessive attacks or make the civilian population the target of attacks, reprisals, or acts or threats of violence with the intent of generating terror." Judge Pedraz cites Article 608.3 of the Penal Code, which describes protected persons as "the civilian population and persons protected under the IV Geneva Convention of 12 August 1949 and by Additional Protocol I of 8 June 1977." He then adds a charge of "aggravated murder" against the three servicemen and concludes that there exist "rational indicators" that the actions of the servicemen constituted criminal acts.

-- Judge Pedraz asserts that (unspecified) comments in the media by one of the accused of the circumstances of the incident confirmed the existence of "an order, authorization of that order, and the firing of a tank round," a sequence Judge Pedraz says was further supported by the USG "report" (Judge Pedraz's quotes) on the incident. Judge Pedraz then discusses the recommendation by "the Pentagon" for foreign journalists to move to the Palestine Hotel, indicates that the "media" reported to "Embassies, the Pentagon, and Washington" the GPS coordinates of the Hotel, indicates that US military forces were advised not to target the Palestine Hotel, and claims that "Secretary of State Colin Powell acknowledged that it was known that the Palestine Hotel was full of journalists."

-- Pedraz disputes the conclusion of the USG investigation that the servicemen responded appropriately and within the rules of engagement to the suspected threat of a sniper or enemy spotter at the Palestine Hotel, because USG forces should have known that the Palestine Hotel was a civilian facility and that the "flash" seen by USG forces could have been the reflection of a camera lens or a camera flash. Judge Pedraz further notes attacks by US aircraft against Al-Jazeera and other media facilities near the Palestine Hotel, implying that USG forces were deliberately targeting the international media. Pedraz alleges that there is sufficient evidence to warrant charges the shot fired by the US tank that killed Couso, "without evidence of any threat whatsoever... constitutes an "attack, reprisal, act, or threat of violence with the objective of terrorizing" journalists, as indicated by the attacks the same day against Al Jazeera and Abu Dhabi TV." On this basis, Judge Pedraz orders the "provisional arrest" of the named US servicemen.

Charges:

Judge Pedraz orders the indictment of the three US servicemen

and instructs the notification of the three defendants via an MLAT to US authorities. Further Judge Pedraz indicates that "once the (subjects) are at the disposition of (Spanish courts)," they should provide a bond of one million Euros (\$1.37 million) to cover potential civil liability as a result of the criminal investigation and trial. Under Spanish law, the National Court prosecutor has three working days to present an appeal to Judge Pedraz's indictment.

//DCM CONTACTS MINISTRY OF JUSTICE//

3. (SBU) The DCM contacted Secretary of State for Justice (Undersecretary equivalent) Julio Perez Hernandez on April 27 to draw his attention to the USG's concerns regarding this case. The DCM noted the USG's respect for the independence of the Spanish judiciary but emphasized our disappointment with the issuance of this indictment after the USG had provided a comprehensive report demonstrating that we had already fully investigated the circumstances of Couso's death. Perez Hernandez (who only recently assumed his position) said that he knew the general outlines of the Couso case but was unaware of both this indictment and of the latest actions by Judge Pedraz. However, Perez Hernandez

MADRID 00000800 003.2 OF 003

said that he would try to make contact with National Court Chief Prosecutor Javier Zaragoza to determine how the prosecutors intended to respond.

4. (SBU) Shortly after the DCM's conversation with Perez Hernandez, MOJ Director General for International Relations Cristina Latorre called him to say report that the MOJ had been unable to contact Chief Prosecutor Zaragoza. Latorre said that Judge Pedraz's actions had come as a complete surprise to the MOJ, noting that she agreed that there were no grounds for war crimes or murder charges and had worked with prosecutors in 2006 to get the case dismissed.

//MEDIA INQUIRIES//

5. (SBU) This is a major development in the Spanish context and we expect to receive many questions from local media regarding the USG response. As we have throughout this case, the Embassy will deploy the previously approved guidance below, last used in response to media inquiries on January 16, 2007:

"On behalf of the Government of the United States, we reiterate our profound sympathy for the death of the Spanish journalist and of the Reuters correspondent Taras Protsyuk in the Palestine Hotel in Baghdad. The US authorities undertook a detailed investigation of the incident. We shared the results of the investigation with Spanish authorities. The investigation concluded that US military forces acted within the rules of engagement in that zone of armed conflict."

//COMMENT//

6. (SBU) Legat confirmed with DOJ that DOJ has not received

the MLAT which Judge Pedraz instructed be delivered in connection with this indictment. It is our understanding that transmittal of the MLAT will take several weeks to make its way from the Spanish Ministry of Justice to DOJ. If the USG does not acknowledge a Spanish MLAT or otherwise cooperate in this case, it is possible that the case could be suspended or archived, since Spanish law does not provide for trial in absentia. However, this would leave the charges against the US servicemen pending. Respected figures in the Ministry of Justice and Interior and within the Zapatero Administration have told us that they agree with the USG view on the legal validity of this case and have assured us that the case was so weak that it would eventually crumble. Clearly Judge Pedraz (considered a difficult judge in the judicial community) is of another mind and intends to aggressively pursue this case. We will continue to engage at a high level with Spanish Government officials to press the case for the dismissal of the charges against the US servicemen.

Aguirre

ID:	107903
Date:	2007-05-11 16:30:00
Origin:	<u>07MADRID899</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED//FOR OFFICIAL USE ONLY
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UNCLAS MADRID 000899

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EUR/WE FOR ALLEGRONE, CLEMENTS AND CERVETTI, L/LEI FOR
PROPP, KULISH AND JOHNSON

E.O. 12958: N/A
TAGS: MARR, PGOV, PREL, SP
SUBJECT: SPAIN/COUSO CASE: UPDATE; CONVERSATIONS WITH KEY
SPANISH LEADERS

REF: A. MADRID 0800 AND PREVIOUS
B. LLORENS-ALLEGRONE E-MAIL OF APRIL 30
C. 2007

1. (SBU) DCM Llorens met with Spanish State Secretary for Justice (Deputy Minister-equivalent) Julio Perez Hernandez on May 10 to express USG's strong concern about the formal charges filed in Spain against the three US servicemen named in the legal case filed by family members of the Spanish camaraman Jose Couso, who was killed by US fire during the capture of Baghdad in April 2003 (ref A). DCM was following up on the April 30 discussion between US Ambassador to Spain Aguirre and Spanish First Vice President Maria Teresa Fernandez de la Vega (ref B), in which de la Vega said she was following the case carefully, had reviewed the the documents filed by Judge Pedraz on April 27 and had found no new material in the material or evidence included in the decision nor in the Judge's conclusions. In response to the Ambassador's strong pitch for the government to seriously consider appealing the decision, she said that an appeal was among the options being weighed, but cautioned that the government had to tread carefully in dealing with Spain's

independent judiciary. She assured the Ambassador that she was deeply involved in following the case and that it had the attention of the highest levels of the Spanish government.

2. (SBU) In his conversation with the DCM, Perez-Hernandez said that there was still some time available for an appeal (despite information last week that the appeal deadline had passed) because the timeline did not start precisely when the case was filed. He said that he understood that the Spanish National Court Chief Prosecutor Javier Zaragoza was considering an appeal. (Perez-Hernandez said that his office was checking on the precise timeline). He said his government shared the USG's concern about this case and said he would follow the case every step of the way and stay in touch with the Embassy. He noted that the government does not control the judiciary and it might be counter-productive to launch a formal government approach, but that the GOS would work with the US to assist in the process. DCM reiterated the USG's deep concern about the case, noting that the USG had conducted a thorough investigation, shared these results with the Spanish government and that the results were clear that the three US servicemen had committed no crime. Our sympathies remained with the families but there was no cause to ruin the lives of the three US servicemen, who were not criminals. DCM vowed to remain in close contact with Perez-Hernandez and his office on the case, and Perez-Hernandez welcome close coordination.

Aguirre

ID:	108128
Date:	2007-05-14 15:51:00
Origin:	<u>07MADRID910</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED//FOR OFFICIAL USE ONLY
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UNCLAS MADRID 000910

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EUR/WE FOR ALLEGRONE, CLEMENTS, AND CERVETTI
L/LEI FOR PROPP, KULISH, AND JOHNSON

E.O. 12958: N/A
TAGS: PREL, PGOV, MARR, SP
SUBJECT: SPAIN/COUSO CASE: PROSECUTOR APPEALS CHARGES
AGAINST US SERVICEMEN

REF: A. MADRID 899
B. MADRID 800 AND OTHERS

(SBU) National Court Chief Prosecutor Javier Zaragoza contacted the DCM on May 14 to report that on May 11 he had appealed the decision by National Court Magistrate Santiago Pedraz to file formal charges against the three US servicemen named in the case filed by relatives of Spanish cameraman Jose Couso (reftels). This case now proceeds to the appeals body within the National Court ("Sala de lo Penal de la Audiencia Nacional"). This is the same appeals tribunal that dismissed the Couso case in 2006 on the grounds that Spain did not have jurisdiction to try the case. The Supreme Court overturned the decision of the National Court and ruled that Spain did have jurisdiction, but did not rule on the substance of the Couso case. Zaragoza told the DCM that, while he was sympathetic towards the Couso family and there was strong political pressure related to the Couso legal case, his job was to make a technical/legal evaluation. Zaragoza said that his review of the facts led him to conclude that the killing of Jose Couso by the US servicemen

was not intentional, therefore the servicemen could not be charged with war crimes or murder. Post will seek a copy of Zaragoza's appeal to share with the Department.

Aguirre

Reference ID	Created	Released	Classification	Origin
<u>07MADRID911</u>	2007-05-14 17:05	2010-12-01 12:12	CONFIDENTIAL//NOFORN	Embassy Madrid

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FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2514
RUEKJCS/SECDEF WASHDC IMMEDIATE
INFO RUEKJCS/JOINT STAFF WASHDC PRIORITY
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RUEHLA/AMCONSUL BARCELONA 2699
C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000911

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FROM THE AMBASSADOR FOR OSD/P DASD DAN FATA

E.O. 12958: DECL: 05/14/2017
TAGS: PREL MARR SP
SUBJECT: SCENESETTER FOR US-SPAIN HIGH LEVEL DEFENSE TALKS

Classified By: Ambassador Eduardo Aguirre for reasons 1.4 b & d.

¶1. (C/NF) Dan, welcome back to Spain. I appreciate your patience and efforts to finally resolve the NCIS/OSI issue and I'm glad that you've made this High-Level Defense Committee (HLDC) meeting a priority. Now that the Permanent Committee is back on track, handling routine issues at the staff level, we can use the HLDC forum to share views and set strategic direction on key international policy issues like Afghanistan, Kosovo, the Couso case, missile defense, the NATO Summit in 2008, and future US use of Moron and Rota military bases. As we've discussed before, Spain can at times be a difficult partner, but never more so than when it feels ignored. This meeting, along with Secretary Rice's visit in a few weeks, should reassure the GOS that we take it seriously, but while reminding MOD that we have high expectations of such important partners.

-- US USE OF SPANISH BASES --

¶2. (C/NF) The DCM, the Embassy's political-military team, and I travel regularly to Rota and Moron, the Spanish bases where nearly 3000 US troops and dependents live and work. With each successive visit, I am more impressed by the important activities and outstanding working-level cooperation at the bases. The Czech Deputy Prime Minister, planning for the possibility of US missile defense installations in his country, recently visited Rota in order to understand how the US military behaves as a tenant. Perhaps on your next trip you'll be able to travel to southern Spain to get a better

idea of the key role that the bases play in US efforts in Iraq, Afghanistan, and other operations. As you know, it is taking MOD longer than we expected to implement its new interagency process for reviewing proposed Naval Criminal Investigative Service and USAF Office of Special Investigations activities. We continue to press them to speed the process so that we can begin to implement the agreement and our investigators can get back to work.

-- AFGHANISTAN --

¶3. (C/NF) Despite the limitations imposed by Spanish domestic politics, which are foremost in every minister's mind, due to nationwide local/regional elections in two weeks and national elections within the year, Spain remains a stalwart ally in Afghanistan. Though not currently in a position to increase the 690-soldier troop ceiling that Parliament set, the GOS insists that it is committed to maintain current levels for the long haul. Your primary interlocutor, MOD Secretary General for Policy Luis Cuesta, recently spent a week in Kabul and Herat with his counterpart from MFA. They both returned relatively optimistic that NATO-ISAF is making progress but understanding more clearly than ever that NATO won't be able to leave anytime soon. Top MOD leaders have also told us privately that CHOD General Sanz has initiated discussions in Brussels regarding the possibility that Spain would staff the core of the ISAF HQ in summer 2008, after Spanish elections. We continue to press the GOS to increase its public diplomacy efforts, and to consider doing more when it is able.

¶4. (C/NF) While the GOS has lately complained about the lack of coordination between ISAF and Operation Enduring Freedom -- specifically the airstrikes in Herat province that killed civilians as well as Taliban -- Spain remains active on the security and reconstruction fronts. The Spanish Provincial Reconstruction Team (PRT) is well regarded for involving local Afghans in its efforts to provide basic services and critical infrastructure to the people of Badghis province, but MFA officials note that there is no sign of the central government or national security forces in the province. While carefully complying with its caveat, Spanish troops supported NATO-ISAF's Operation Achilles earlier this spring by sealing the southern border of their zone. Regarding its Sevilla Ministerial commitments, MOD sources say that two Spanish military training teams (OMLTs) will arrive in Afghanistan in early June to begin training Afghan National Army troops. They have told us that that these 30-50 soldiers will be in addition to the 690 troops that are already deployed. The Spanish Army is also proceeding with its purchase of tactical UAVs, and expects to have them in the field later this year.

-- KOSOVO --

¶5. (C/NF) In the Balkans, where its troops have served for more than 15 years, Spain has shown its ability to maintain troops for the long-term. Right now, however, we need keep

making our case to keep troops in Kosovo. For domestic political reasons and fear of provoking Russia, Spain is ambivalent about the current direction of Kosovo policy. So long as there is a UN resolution authorizing the Ahtissari plan, Spain will maintain its troops in KFOR. If the UN fails to agree on a new resolution, Spain has said that it would have to seriously consider pulling its troops out, but has emphasized that it would do this only in extremis and only in careful consultation with allies. We need to keep the pressure on, reminding Spain that NATO has a critical role and that we can't let the Russians drive a wedge between the US and Europe on issues like this.

-- MISSILE DEFENSE --

¶6. (C/NF) Though initially tentative about the US missile defense (MD) plan, Spain listened carefully to the Missile Defense Agency Deputy Director BG O'Reilly's presentation in March, asked some tough questions, and has taken the position that so long as the US attends to Russian and is willing to discuss the issue in NATO, it won't stand in the way. MOD said that it will soon announce support for the development of a NATO study on the issue. MOD has asked to see a simulation of how well the proposed MD system would cover Spain, though it says that it doesn't currently see a particular threat from Iran and is willing to support the US's plan primarily as a show of solidarity among allies. While we need to continue to inform and engage MOD on this issue, we don't see Spain causing problems on missile defense.

-- NATO --

¶7. (C/NF) On 2008 NATO Summit issues of enlargement and partnership, Spain believes that NATO should keep an open door to European applicants who can qualify. MOD says that the Balkans should be treated as a single unit, despite their different stages of development, because it will be important to future Balkans stability to eventually get them all around the NATO table. Regarding Ukraine and Georgia, Spain is not opposed to the idea that they would eventually join NATO, but says that the best thing at the moment is to wait and see what direction they choose to go. Spain is a big fan of NATO partnerships, especially the Mediterranean Dialogue, which it believes should be strengthened for the sake of fighting terrorism in North Africa and supporting the current governments and militaries against extremists. MOD says that the Med Dialogue countries know that they aren't going to someday join NATO, but that they should be invited to observe exercises, included in training, and given other opportunities to deepen ties and cooperate with NATO.

-- CRITICAL SIDEBAR ISSUES --

¶8. (C/NF) A couple of other key issues will be in the air, if not actually on the agenda. For our side, it will be important to continue to raise the Couso case, in which three US servicemen face charges related to the 2003 death of Spanish cameraman Jose Couso during the battle for Baghdad. XXXXXXXXXXXX. I raised this issue with Vice President de la Vega on April 30. She was supportive but uncertain that direct GOS involvement would be productive.

DCM spoke late last week with the Deputy Justice Minister, and we continue to prod the GOS to appeal. We were informed Monday morning that the Chief Prosecutor of Spain's National Court has indeed filed an appeal, which will go to the same court which originally dismissed the case (in 2006) on procedural grounds. The Deputy DIGENPOL in MOD told the Embassy last week that MOD completely supports the US position, and said that he would raise with his superiors the possibility of making a statement to the court or otherwise demonstrating support. The Deputy Justice Minister also said the GOS strongly opposes a case brought against former Secretary Rumsfeld and will work to get it dismissed. The

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judge involved in that case has told us he has already started the process of dismissing the case.

¶9. (C/NF) An issue that MOD may raise with you is their perception of "imbalance" in the defense industrial relationship. The HLDC is not the most appropriate forum for a discussion of this issue, especially since Al Volkman, Director of International Cooperation for acquisitions, will be in Madrid at the same time as you precisely for the long-scheduled 17th US-Spain Defense Industrial Cooperation Committee meeting and the 4th US-Spain Declaration of

MADRID 00000911 003 OF 003

Principles meeting. Nonetheless, Spanish Defense Ministry officials have seen you with Secretary Gates, and may raise the issue with you in hopes of getting it top-level attention. Defense Minister Alonso has raised the issue in public speeches and his people have raised it in meetings. They point to Spanish purchases like 24 Tomahawk missiles and US AEGIS combat systems for its F-100 frigates and S-80 subs, which the GOS made over the protests of European allies like France and Germany, and say that while MOD plans to continue a strong relationship with the US defense industry and knows that it is getting the best when it buys US, it would appreciate a "gesture" from the US so that it can show domestic audiences that Spain gets something out of the relationship. While we continue to push Spain to buy into the Joint Strike Fighter program, we know that Spain is very anxious to learn whether Spanish company EADS-CASA will get the Joint Cargo Aircraft contract. We try to remind MOD that while there may be a dollar imbalance in the defense relationship, Spain benefits from the relationship in other ways, not only getting the best technology for its military, but also being able to sell products that include US technology to third countries.

¶10. (C/NF) We want to use the HLDC to further strengthen the Permanent Committee and are pleased that EUCOM will propose the joint working group as a means to increase EUCOM involvement on Spanish military issues. Direct and ongoing communication between MOD and EUCOM at the staff level can only help us to avoid minor problems that have the potential to escalate, like NCIS/OSI.
Aguirre

Reference ID	Created	Released	Classification	Origin
<u>07MADRID1021</u>	2007-05-25 11:11	2010-12-01 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO6681
PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHROV RUEHSR
DE RUEHMD #1021/01 1451127
ZNY CCCCC ZZH
P 251127Z MAY 07
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 2628
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
C O N F I D E N T I A L SECTION 01 OF 05 MADRID 001021

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TO THE SECRETARY FROM AMBASSADOR EDUARDO AGUIRRE; ALSO FOR
EUR DAN FRIED, E-ES, KEN MERTEN, EUR/WE

E.O. 12958: DECL: 06/30/2016
TAGS: OTRA PREL SP
SUBJECT: SCENESETTER FOR SECRETARY RICE'S JUNE 1 VISIT TO
MADRID

Classified By: Ambassador Eduardo Aguirre for reasons 1.4 b & d.

Summary

¶1. (C) Dear Secretary Rice: I welcome you to Spain on behalf of our 367 American and Spanish colleagues serving the United States at Mission Spain. Your visit is a milestone in our work, together with you, to overcome the differences over Iraq with the Spanish government and convince them that further strengthening cooperation coincides with Spain,s national interest. At the same time, your visit can serve as a catalyst to encourage Spain to become an even more active)- but responsible -- member of a Transatlantic partnership, marked by cooperative efforts on our shared values, including counter-terrorism and promoting democracy, freedom and human rights throughout the world. This means that you will need to speak frankly to the Spanish government about Cuba, despite their desire to avoid the issue. The issue need not be the central one in a rich agenda on a wide variety of fronts in which we work closely with Spain; however, Cuba must be an element of your discussions on democracy, and Spain,s own special responsibility as a democracy leader that has successfully undergone the transition from dictatorship to thriving democracy. Your discussions will also include Kosovo, Afghanistan, Spain,s OSCE Chairmanship, Russia, Iran, Iraq, Latin America and the Middle East. Moratinos will raise a thorny child-custody case involving a Spanish woman currently jailed for contempt of court in New Jersey. Your interview with the Spanish press will provide an opportunity to reach out to the Spanish people and underscore the significant value of our alliance and convey our views on issues on which we differ. We see this visit as a great opportunity to advance our relations with Spain, and

the Spanish government shares this view. END SUMMARY

¶12. (C) The Spanish government has long awaited your first visit as Secretary of State and views it as a sign of the importance of strong U.S.-Spain relations. They will use your visit to counter criticism that the Zapatero government has shattered the transatlantic relationship. Per the Spain strategy you approved two years ago, we have sought to move this government away from visceral and reflexive anti-U.S. policies and sentiments, carving out areas in which Zapatero,s government can offer support for the President,s broad global agenda. We have made clear to the Zapatero government that the price of our willingness to publicly promote good bilateral relations is real contributions on world issues. While we have made some positive headway, the Zapatero government has not hesitated on occasion to pursue an agenda counter to our own when deemed in the Socialist party,s domestic political interest. Your visit should encourage Spain to be an even more active member of a transatlantic partnership that works cooperatively in pursuit of shared values on freedom, democracy, human rights and development. XXXXXXXXXXXX

¶18. (C) Two important bilateral issues fall in the judicial area. Moratinos has said he will raise with you the child custody involving Spanish citizen Maria Jos Carrascosa who is currently jailed for contempt of court in Bergen County, New Jersey for failure to return her child to the US as required by a New Jersey court decision. During this political season in Madrid, the case has become a cause celebre, with pictures of Carrascosa) viewed as a mother separated from her child - in handcuffs entering the New Jersey prison. The GOS agrees that this is a case for the courts and both governments agree that mediation of the dispute is the appropriate response. However, Moratinos for political reasons has to show the government is doing something about the case. On our side, you should note continued USG concern about the court case against the three US servicemen charged with alleged &war crimes8 in the case of the death of Spanish TV cameraman Jose Couse in the Palestine Hotel in Baghdad in 2003. The GOS has been helpful behind the scenes in getting the case appealed by the Spanish Prosecutor. The case now moves to the appeals tribunal of the National Court, which will rule on the substance of the charges. We want continued vigilance and cooperation by the GOS until the case is dropped.

¶19. (C) Moratinos holds you in very high regard and values the contacts that he has had with you. Your efforts and those of other senior USG officials, along with mine, to help guide Moratinos on key issues such as handling Russia in the OSCE and on the full range of Middle East issues, can prove effective. The more outreach the better, as we try to play to his desire to have a role on major issues while helping to direct some of these efforts toward policies that work to support US global objectives.

¶20. (U) You may want to congratulate Moratinos on the upcoming celebration of the 50th anniversary of the Commission for Cultural, Educational and Scientific Exchange between the United States and Spain (the Fulbright

Commission) and express how you look forward to hearing more about the events planned to take place in Washington to commemorate this major milestone. The Spanish Fulbright Commission, the second largest in Europe, is a truly binational organization with the majority of funding provided by the Spanish central government, as well as regional autonomous communities and private sector entities.

¶21. (C) In all, you will find a rich agenda with Spain, which your visit can advance substantially. Again, welcome to Madrid. We are looking forward to your visit on June 1.
AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>07MADRID1287</u>	2007-07-02 11:11	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO0914
PP RUEHAG RUEHROV
DE RUEHMD #1287/01 1831141
ZNY CCCCC ZZH
P 021141Z JUL 07
FM AMEMBASSY MADRID
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INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHAS/AMEMBASSY ALGIERS 3943
RUEHLB/AMEMBASSY BEIRUT 0240
RUEHBO/AMEMBASSY BOGOTA 5219
RUEHBUL/AMEMBASSY KABUL 0112
RUEHME/AMEMBASSY MEXICO 0641
RUEHRB/AMEMBASSY RABAT 6029
RUEHLA/AMCONSUL BARCELONA 2861
RUEHUB/USINT HAVANA 0206
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 001287

SIPDIS

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E.O. 12958: DECL: 07/01/2017
TAGS: PGOV PREL SP
SUBJECT: SPAIN: FORMER PRESIDENT AZNAR ON SPANISH POLITICS,
WESTERN SAHARA, AFGHANISTAN, LEBANON, AND LATIN AMERICA

REF: MADRID 1276

MADRID 00001287 001.2 OF 002

Classified By: Ambassador Eduardo Aguirre for Reasons 1.4 (b) and (d)

¶1. (C) Summary. Former Spanish President Jose Maria Aznar told the Ambassador on June 28 that he viewed with great concern the "malignant affect" that the Zapatero government's policies were having on Spain, and he was dismayed to see the Spanish nation slowly eroding as more power continued to devolve to Catalonia and the Basque region. Aznar confided to the Ambassador that if he saw his country descend to extremely dire straits, he would consider "stepping back in," evidently implying that he would seek to return to leadership of the Popular Party. Aznar said that he and the current leadership of the Popular Party had been surprised by that day's announcement by IMF Managing Director Rodrigo Rato that he would step down this fall and return to Spain to spend more time with his family. On North Africa, Aznar admonished the U.S. for its current efforts to work with Morocco to solve the Western Sahara issue and said that this was a "bad idea." The Ambassador expressed condolences for the six Spanish soldiers killed recently in Lebanon and said the USG hoped the GOS would still fulfill its commitments both in that country and in Afghanistan. Aznar replied that Zapatero

was weak and would cave to political pressure to reduce Spain's presence. The Ambassador urged that the PP refrain from complicating Spanish deployments in Afghanistan and Lebanon, given the strategic importance of those missions. Aznar replied that the PP had never pressured Zapatero on either deployment and would not do so in the future. The former President concluded the meeting by giving his views of the current situation in Cuba, Mexico, and Colombia. End Summary.

//AZNAR ON RATO'S RETURN AND THE "DETERIORATION OF SPAIN"//

¶2. (C) Ambassador and Mrs. Aguirre hosted former Spanish President Jose Maria Aznar and his wife Ana Botella to a June 28 dinner at the residence. President Aznar said that he had just come from a meeting at his FAES think tank that was attended by current Popular Party (PP) leader Mariano Rajoy and most of the PP leadership. Aznar said that he and other PP members had been surprised by that day's announcement by IMF Managing Director Rodrigo Rato that he would step down this fall and return to Spain to spend more time with his family. (Comment: Rato was Minister of the Economy in Aznar's government and rumors have circulated in Spain that Rato might make a strong running mate for Rajoy in Spain's national elections next year. Spanish press on June 29 reported that Rato provided advanced notice of his resignation only to Rajoy. End Comment). Aznar said he was aware that Rato had become bored with his position at the IMF and yearned to return to Spain, and he believes that Rato may now assume a leading position in Spain's private sector.

¶3. (C) Aznar told the Ambassador that Spain was currently in the hands of a very bad government whose policies were "malignantly affecting" the fabric of the country. Aznar views with great concern the continued devolution of power to Catalonia and the Basque region that is "slowly eroding Spain," as well as Zapatero's insistence on dredging up Spain's Civil War past. The Ambassador asked Aznar what his role would be if, in the former President's view, the Zapatero government continued to pursue policies deleterious to Spain, and Rajoy and the PP failed to gain any ground. Aznar responded that, "if I saw that Spain was really in despair, I may have to step back in to national politics." Aznar said that he could accept a Socialist government in Spain, but not this President and not this government. Aznar posited that the recently completed regional and local elections had been essentially a draw, and said that it was nearly impossible to predict what would happen in national elections that must be held by March 2008. Aznar said that the PP's biggest threat was voter apathy, as most Spanish citizens are complacently content with their personal economic situation, and that only a "major event" could shake the Spanish out of their lethargy. During the dinner, the Ambassador gave Aznar several opportunities to comment on the strengths of current PP leader Rajoy, but the President offered only lukewarm support for his successor.

//ADMNITION ON WESTERN SAHARA//

¶4. (C) Aznar told the Ambassador that the U.S. should cease its efforts to work with Algeria and Morocco to find a solution to the problems in Western Sahara. Aznar stated flatly that recent U.S. policy to move closer to Morocco on this issue was a "bad idea." The former President's opinion was that the U.S. would make concessions to Morocco and offer assistance, but then Morocco would "misuse these things."

//LEBANON AND AFGHANISTAN//

¶5. (C) The Ambassador expressed condolences for the six Spanish soldiers killed on June 24 in Lebanon and said he hoped the GOS would still fulfill its commitments both in that country and in Afghanistan. The Ambassador said it is vital for Spain to maintain a united front on key strategic issues such as these. Aznar replied that Zapatero was weak and would cave to political pressure to reduce Spain's presence in overseas deployments. The Ambassador replied that much of the political pressure on Zapatero in regards to Spanish deployments was in fact coming from the PP itself (REFTEL). Aznar denied that the PP had put political pressure on Zapatero to reduce Spain's commitment to its overseas deployments, the PP only wanted Zapatero to better explain the nature of the deployments to the Spanish people. He said the PP would not pressure the GOS on this in the future either.

//LATIN AMERICA//

¶6. (C) President Aznar briefly provided the Ambassador with his view on select Latin American countries. He said that Foreign Minister Moratinos' April visit to Havana was "predictable," as current Spanish leaders are "sympathetic to Castro, Communism, and this type of left-wing government." Aznar had just completed a trip to Mexico and believes that President Calderon is doing a "credible job." Aznar said Calderon admitted to having completely misjudged the depth and breadth of corruption in Mexico and that the pervasive influence of narcotics in the country was beyond comprehension. Turning to Colombia, Aznar said that President Uribe needs U.S. assistance and that recent U.S. Congressional actions to alter assistance to that country would do long-term damage to both U.S. and Colombian interests.

¶7. (C) Comment. Aznar's lack of enthusiasm for his hand-picked successor, Rajoy, was noteworthy. Aznar never really left Spanish politics, but a public decision to resume a political career would likely reignite the pitched battle generated by the nature of the PP's loss following the March 11, 2004 terrorist attacks. Aznar clearly is troubled by what he believes is happening in Spain and may have doubts that Rajoy is the man to return the PP to power. Although Rajoy and the current PP leadership trumpeted the results of regional elections, Aznar believes that it was a draw. The PP is confident heading into national elections, but a positive outcome is far from assured. If Rajoy cannot return his party to national power, individuals such as Rodrigo Rato, Madrid Mayor Alberto Ruiz-Gallardon, and perhaps former

President Aznar may be waiting in the wings.
AGUIRRE

ID:	115995
Date:	2007-07-19 16:48:00
Origin:	<u>07MADRID1428</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	
Destination:	VZCZCXRO7423 PP RUEHLA DE RUEHMD #1428 2001648 ZNY CCCCC ZZH P 191648Z JUL 07 FM AMEMBASSY MADRID TO RUEHC/SECSTATE WASHDC PRIORITY 3045 INFO RUEHCV/AMEMBASSY CARACAS 1228 RUEHLA/AMCONSUL BARCELONA 2923 RUCNFB/FBI WASHDC RUEAWJA/DEPT OF JUSTICE WASHDC

C O N F I D E N T I A L MADRID 001428

SIPDIS

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E.O. 12958: DECL: 07/19/2017

TAGS: PGOV, PREL, SP, VZ

SUBJECT: SPANISH ATTORNEY GENERAL REVIEWS CT AND JUDICIAL
COOPERATION WITH AMBASSADOR

Classified By: Ambassador Eduardo Aguirre for reasons 1.4 b & d.

1. (C) SUMMARY: Spanish Attorney General Candido Conde-Pumpido told the Ambassador on July 18 that he sees positive signs that most or all of the twenty-nine people charged in the 2004 Madrid train bombings will be convicted. Conde-Pumpido said that US-Spain cooperation on counterterrorism and counternarcotics is excellent and productive, pointing out that Spain should soon have a legal attache in Washington to further strengthen ties. He said that he would invite AG Gonzales to a conference of Latin American attorneys-general in Madrid at the end of October.
END SUMMARY.

-- GOOD SIGNS IN MADRID TRAIN BOMBINGS TRIAL --

2. (C) During a lunch meeting with the Ambassador, Conde-Pumpido said that, while the judges won't deliver their verdicts until mid-October, his analysis of the judges' actions points to conviction for most or all of the twenty-nine defendants in the Madrid train bombing case. He said that, under the Spanish judicial system, once the trial arguments are completed, judges typically release on bail any defendants who they are likely to find not guilty. Conde-Pumpido said that it is a good sign in this case that the court has not released any defendants.

-- STRONG JUDICIAL COOPERATION --

3. (C) Conde-Pumpido said that bilateral cooperation on

counterterrorism, counternarcotics, and other judicial issues is excellent. He expressed satisfaction that plans are moving ahead for the placement of a Spanish legal attache in Washington and noted that he had raised the issue with AG Gonzales when he visited Madrid last October. Conde-Pumpido said that the Spanish legatt in Washington will be unusual for Spain but important, and should further improve communication on key issues. He also said that he would host a meeting of all Latin American attorneys-general in Madrid at the end of October and would invite AG Gonzales.

-- CURRENT SPANISH CASES INVOLVING THE US --

4. (C) The Ambassador raised US concerns about a number of ongoing Spanish legal cases. He told Conde-Pumpido that the arrest of Monzer al-Kasser was an important step and that the US is working closely with the investigating judge on the extradition process. Regarding the Couso case, in which a Spanish journalist was killed by a US tank shell during the invasion of Baghdad in April 2003, Conde-Pumpido said that he continues to do what he can to get the case dismissed, despite public pressure from the family, leftist group, and the press. On the CIA flights issue, he said that the case is moving forward at its own pace, but is unlikely to provide any surprises. The Ambassador also raised the Carrascosa child custody case and the Rosalini contract case, but Conde-Pumpido demurred, reminding the Ambassador that his job is different from that of the US Attorney General and that he does not have any authority over the issues raised in those cases.

-- LATIN AMERICA --

5. (C) Conde-Pumpido had just returned from a trip to Latin America, where he had looked at rule of law programs. He said that in several Latin American countries including Colombia, Spanish experts are working with the host governments to help build strong independent judiciaries. Conde-Pumpido also reported that Spanish Ambassador in Caracas Morodo had complained to him that the GOS seems to be taking a harder line against Hugo Chavez in an attempt to please the US. The Ambassador replied that the GOS is more likely taking a harder line against Chavez out of concern about Chavez's increasingly worrisome actions.

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Reference ID	Created	Released	Classification	Origin
<u>07MADRID1805</u>	2007-09-18 07:07	2010-12-02 12:12	SECRET//NOFORN	Embassy Madrid

VZCZCXRO0111
PP RUEHTRO
DE RUEHMD #1805 2610756
ZNY SSSSS ZZH
P 180756Z SEP 07
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TO RUEHC/SECSTATE WASHDC PRIORITY 3439
INFO RUEHAM/AMEMBASSY AMMAN PRIORITY 0165
RUEHLO/AMEMBASSY LONDON PRIORITY 0997
RUEHTRO/AMEMBASSY TRIPOLI PRIORITY
S E C R E T MADRID 001805

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NOFORN
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FOR S/WCI (AMBASSADOR WILLIAMSON AND MILBERT SHIN)
FOR EUR/WE (SAMSON AND PEASE)

E.O. 12958: DECL: 09/16/2017
TAGS: PHUM PREL PTER PINR SP UK JO LY
SUBJECT: SPAIN STILL INTERESTED IN GUANTANAMO DETAINEES,
BUT NOT OPTIMISTIC ABOUT CONVICTION

REF: A. SECSTATE 121837
1B. 2006 MADRID 1914

Classified By: DCM HUGO LLORENS FOR REASONS 1.4 (B) AND (C)

11. (S/NF) Based on Reftel A request, Embassy Legatt on September 4 met with Javier Zaragoza, Chief of the Spanish National Court, to discuss the case of Guantanamo detainees Jamil El Banna and Omar Deghays. Legatt reminded Zaragoza that the GOS requested the extradition of El Banna and Deghays in 2004 and inquired whether the two continued to face charges in Spain. Specifically, we asked whether the Spanish government is prepared to accept their transfer for law enforcement purposes. Zaragoza was very familiar with the cases surrounding the two individuals and has been looking into this issue since we made informal contact in July. He promised to look into Reftel questions and respond as soon as possible. Zaragoza finally responded on September 12 and said that the two individuals are still wanted in Spain and that the Spanish government would accept their transfer. However, Zaragoza quickly added that he could make no promises about the strength of the case that could be brought against them, the probability they would be convicted, or their status in Spain should they be found not guilty and released. He said he was not optimistic about the chances of a conviction. Zaragoza said that Baltasar Garzon is in charge of the two cases and would be the lead prosecutor during any potential trial.

12. (S/NF) Comment. Judge Garzon was the prosecutor on both

the Lachsen Ikassrien and Hamid Abdurrahman cases (per Reftel B, the two former Guantanamo inmates whose convictions in Spain were later overturned after the Spanish High Court ruled inadmissible any evidence gathered in conjunction with their time at Guantanamo), and he had a field day in the Spanish press criticizing Guantanamo and US CT policies after the two men were released. Zaragoza warned of the possibility of a similar situation should the cases of El Banna and Deghays fall apart, and Embassy Madrid believes the publicity-seeking Garzon would not think twice about following a similar tack.

MINIMIZED CONSIDERED

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>07MADRID2265</u>	2007-12-18 13:01	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO4850
PP RUEHAG RUEHROV
DE RUEHMD #2265/01 3521316
ZNY CCCCC ZZH
P 181316Z DEC 07
FM AMEMBASSY MADRID
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INFO RUCNMEM/EU MEMBER STATES COLLECTIVE PRIORITY
C O N F I D E N T I A L SECTION 01 OF 03 MADRID 002265

SIPDIS

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DEPARTMENT FOR EUR/WE

E.O. 12958: DECL: 12/15/2017

TAGS: PREL SP

SUBJECT: POLITICAL STRATEGIES DEVELOP FOR MARCH GENERAL
ELECTION CAMPAIGNS

Classified By: Deputy Chief of Mission Hugo Llorens for reasons 1.4
(b)
and (d).

¶1. (C) SUMMARY: As we head into the holidays, the polls continue to suggest a close race in the March general election, with President Zapatero and the Partido Socialista Obrero Espanol (PSOE) perhaps enjoying a slight lead over Mariano Rajoy and the Partido Popular (PP). Recent conversations with key figures in the leading parties suggest that when the campaign kicks into high gear in January, both parties will be emphasizing the economy (with sharply different views on how it fares). The PSOE will trumpet itself as the party of social tolerance and environmental protection. The PP will argue that Zapatero has given too much ground to regional interests at the expense of Spanish national unity, has been weak in dealing with ETA, and has not adequately addressed the immigration issue. We do not expect foreign policy to be a key issue, although the PSOE will remind socialist voters that a return of the PP could mean a return to the pro-U.S. foreign policy of former PP President Aznar. Both parties think turnout levels will be the determining factor, since PP voters are widely believed to be more disciplined and hence could be over-represented if relatively few people vote on election day. END SUMMARY.

PSOE SECRETARY GENERAL CONFIDENT BUT HOLDING HIS CARDS CLOSE

¶2. (C) Pepe Blanco, Secretary General of the PSOE, acts as the de-facto party chairman and as the senior political advisor to Zapatero. Talking to the Ambassador, he compared

this election to a heavy-weight title bout, and claimed the PP was not really in the fight. Blanco said he had assembled the finest polling team ever to work in Spanish politics. Boasting of his team's technical expertise, Blanco said they had conducted extensive focus group sessions all over Spain and would develop specific policy positions to reflect the interests of the voting public. Blanco confidentially expressed his certainty that the PSOE had the clear advantage in the campaign, citing weekly polls consistently in favor of Zapatero, and estimated a winning margin of 6-7 points over Rajoy based on current data. Blanco also said the polls were trending upwards over the last several weeks.

¶3. (C) Acknowledging that PSOE-inclined voters tend to be more complacent than PP voters, Blanco said he would never make public any data showing Zapatero held a comfortable lead. Blanco's strategy and tactics hinge on convincing the PSOE voters that their vote is critical to prevent the PP from regaining the Presidency. The message will be, as Blanco framed it bluntly, "vote for the PSOE or live under the rule of reactionary Neanderthals." He also admitted Zapatero is already seen as too moderate by some PSOE "left-leaners" and they might be disinclined to cast a vote in his favor. Only by keeping the PSOE voters feeling threatened with the possibility of a PP victory could the strategists ensure that people will turn up at the polls on voting day.

¶4. (C) Blanco noted that if PSOE does win the election, it will bring a major turnover in the PP structure as Rajoy will be forced to turn over the reins to another political figure. Blanco and other officials like Elena Valenciano, PSOE Secretary for Foreign Affairs, are counting on Zapatero's

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voter appeal and what they describe as Rajoy's "wooden" campaign style.

PP FOCUS ON ECONOMY, FAMILY

¶5. (C) In a December 4 meeting with Ana Pastor, a close advisor to Rajoy, the Ambassador learned that the PP campaign team was reassessing its strategy and implementing recommendations from U.S. political consultants. In a moment of candor, Pastor said that the PP assumed previously that Spanish voters recognized implicitly Rajoy's intellect and capacity, saying, "Rajoy would be a better President than he is a candidate." PP consultants advised that voters perceived Rajoy as distant and unsympathetic. The PP team intends to create opportunities for Rajoy to show more empathy and human connection with voters. They will emphasize the importance of the family with linkages to health, education, financial independence and security. The PP will also continue to focus on pocketbook issues such as rising interest rates (home ownership -- vice renting -- and variable rate mortgages are the norm here) and inflation. Pastor will work with Rajoy to put in place a credible finance team that can compete with the success of current Minister of Economy Pedro Solbes and articulate a strong

financial stability message to the electorate.

¶6. (C) Pastor, like other PP interlocutors, criticized the PSOE for diminishing Spain's international prestige during the last three years. According to Pastor, Zapatero abandoned the transatlantic relationship and reduced Spain's international influence. The PP would seek to expand Spain's prestige and reaffirm key alliances. Citing missed opportunities and mishandling of important portfolios such as the Middle East, North Africa, Venezuela and Cuba, Pastor admitted that foreign policy might not be a decisive issue in the March elections. Nevertheless, she argued that increased drug trafficking from Latin America (e.g., Venezuela) and rising consumption in Spain could give the PP a way to tie the PSOE's foreign policy blunders to the concerns of ordinary voters.

¶7. (C) Acknowledging that all politics are local and that the election would be won or lost on "hometown issues," Pastor said that the "human connection" strategy would play a big part in regional politics. Andalucia is a primary target for getting out the vote, and the PP will play up the need for more education and training opportunities (local press noted Andalucia was ranked lower than Turkey in a recent education survey). In Catalonia, the PP hopes a series of well-publicized debacles involving public infrastructure (commuter train interruptions and electricity blackouts) will lead Catalan voters (who are unlikely to vote for the PP in any circumstance) to stay home on election day.

PP SEEKS TO UP THE LEVEL OF CHARISMA

¶8. (C) During a lunch hosted by the DCM with five members of the PP electoral committee, the guests recognized Rajoy was behind in the polls but claimed to take comfort from the fact that the polls failed to predict their strong showing in Spain's May 2005 municipal elections. The advisors theorized the campaign would be fought hardest in about 20 cities where congressional seats are won or lost by a handful of votes. Each party will put its most charismatic candidates on the ballots in these key areas (e.g., Valencia). The PP team said their campaign would focus on a softening economy, Zapatero's alleged weakness in the face of Basque and Catalan demands for more autonomy and fiscal privileges, and rising concerns over immigration.

¶9. (C) If PP did win the election, Ignacio Astarloa, PP Executive Secretary for Security and Justice, has been mentioned to us as the potential Minister of Interior (among others by Astarloa himself) and Angel Acebes, PP General Secretary has been mentioned as Vice President and senior

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policy advisor. There has been hedging about who might be Minister of Foreign Affairs, with a hint that that PP insiders such as Jorge Moragas or Gustavo Aristegui might be passed over in favor of a senior career diplomat.

¶10. (C) Astarloa told us he expects the March election to be close (within two to three percent). He declined to speculate as to which party was ahead at this point, but he admitted what many observers have noted: the PP might have overplayed its hand during the last eighteen months with its harsh criticism of the PSOE for being soft on terrorism. Nevertheless, he believed Rajoy had much more credibility than Zapatero on security issues, and that, combined with effective messages on the economy and immigration, could win the day. Like Pastor, he emphasized framing issues in a way that connected with voters and cited immigration as one such issue. He noted the rising number of immigrants was beginning to affect ordinary Spaniards as they sought access to social services such as health and education. He also believed immigration could be linked to law and order concerns such as gang violence.

COMMENT

¶11. (C) While the general sense seems to be that the PSOE is slightly ahead, it is too early to make predictions. Rajoy has so far failed to land any body blows on Zapatero. Instead, the PSOE has had some success (thanks in part to PP missteps) in depicting the PP as mean-spirited and needlessly divisive. Nevertheless, Spanish voters will not get serious about this campaign until January or even February. Rajoy still has time to get his message across (it appears there will be two televised debates). There is also the very real possibility that the softening economy, especially if unemployment jumps, will spook the voters. Finally, a boring or negative campaign could suppress turnout, which everyone seems to believe could hand the PP a victory.

MADRID 00002265 003 OF 003

¶12. (C) A lurking issue for the PP is that even if it beats the PSOE, it may not win enough seats to govern without forming alliances with other parties. There are 350 seats in Congress, and 176 are required to govern. In 2004, the PSOE won 164, the PP 148, CiU (the main Catalan party) ten, ERC (another Catalan party) eight, the PNV (the main Basque party) seven, the IU (far left) five, and smaller parties a total of eight. The PSOE combined with ERC and IU to add 13 to their total of 164. The PP electoral committee has acknowledged to us they might have to seek alliances with the Catalan or Basque parties to govern, but it is far from certain that parties from the same regions the PP criticizes for demanding too much autonomy from the central government will ally themselves with the PP if the time comes. Certainly they would try to exact a heavy price.

¶13. (C) Finally, there is the unexpected. The terrorist attacks three days before the 2004 election probably cost the PP the presidency (certainly that is what the PP believes). With the polls so close, no one can rule out some unforeseen event that would turn the campaigns upside down. Whatever the case, we will be watching closely.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>07MADRID2282</u>	2007-12-21 12:12	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO8023
PP RUEHAG RUEHROV
DE RUEHMD #2282/01 3551204
ZNY CCCCC ZZH
P 211204Z DEC 07
FM AMEMBASSY MADRID
TO RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEHC/SECSTATE WASHDC PRIORITY 3990
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHGB/AMEMBASSY BAGHDAD 0192
RUEHBUL/AMEMBASSY KABUL 0148
RUEHLA/AMCONSUL BARCELONA 3207
RUCNFB/FBI WASHDC
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 002282

SIPDIS

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EO 12958 DECL: 12/20/2017
TAGS PREL, PGOV, PTER, SP
SUBJECT: AMBASSADOR'S MEETING WITH SPAIN'S CELEBRATED AND
CONTROVERSIAL JUDGE BALTASAR GARZON

REF: MADRID 2251
MADRID 00002282 001.2 OF 002

Classified By: Ambassador Eduardo Aguirre Jr. for Reasons 1.4 (b) and
(c)

¶1. (C) The Ambassador met on December 14 with Judge Baltasar Garzon, a high-profile investigative magistrate in Madrid's powerful National Court (Audiencia Nacional). Garzon was upbeat in his comments and said that he has a good understanding of U.S. law enforcement and counterterrorism policy, even though he does not always agree with it. He appreciates the close contact he has with the Embassy and said he considers the U.S. a friend. He also believes we have much to gain from continued collaboration. In his view however, the U.S. is missing opportunities to cultivate relationships with his five colleagues, all fellow investigative magistrates (Jueces de Instruccion). Garzon explained to the Ambassador that judges in Spain are a hybrid of a U.S. prosecutor and judge, and can lean more to one side or the other depending on their inclination. The six investigative magistrates that preside over National Courts 1-6 are (respectively): Santiago Pedraz, Ismael Moreno, Fernando Grande-Marlaska, Fernando Andreau, Baltasar Garzon, and Juan Del Olmo. The Ambassador informed Garzon that our Embassy Legal Attache did indeed have good working relationships with some of the other investigative magistrates (including Del Olmo, who was lead investigator on the March 11, 2004, Madrid train bombings), but that we were always interested in ways to work more closely together. In that spirit, and because U.S. and Spanish judicial laws are quite different, Garzon said that Spain should have a judicial attache in Washington to streamline cooperation on key cases, similar to relationships his country already has in the UK, France, and Mexico. (Embassy comment: We continue to work closely with the U.S.

Justice Department and Spanish government to gain mutual approval for the position of a judicial attache based out of the Spanish Embassy in Washington. End Comment.)

//THE AL-KASSAR EXTRADITION//

¶2. (C) Garzon then provided the Ambassador with his thoughts on the pending extradition of Syrian arms dealer Monzer al-Kassar (REFTEL). He said that the judicial part of the extradition had been settled in favor of the U.S., but that the Spanish Council of Ministers still had to give its final approval. Al-Kassar would appeal to the Constitutional Court on the grounds that his human rights had been violated, but the court may not order a halt to the extradition during the approximately 30 days it will take to render its decision. Garzon said it was therefore vital that the Council have the chance to decide on the case at its next meeting, scheduled for December 28, so that Al-Kassar could be transferred to U.S. custody as soon as possible. Garzon reminded the Ambassador that he had prosecuted Al-Kassar in the past, and that he regrets not being able to put him away. He believes Al-Kassar will "start singing like a canary" the moment he is in U.S. custody to try and cut whatever deal he can. Garzon clearly has no love lost for Al-Kassar and said "I hope you get him."

¶3. (C) Judge Garzon ended the meeting by giving the Ambassador a brief readout of his recent visits to Afghanistan and Iraq. Spanish press has reported that Garzon is working with Spanish public television to put together a documentary for broadcast in January that will focus on the current situation in those two countries. Garzon told the Ambassador he was grateful for the treatment and level of access he was given by U.S. officials. He said the security situation in Iraq has improved, but he gives the credit more to the willingness of Iraqi sheikhs and tribal leaders to work with Coalition forces against the terrorists than to the surge in U.S. forces. Although Spanish press reports have speculated the Garzon's documentary would be critical of U.S. CT policy, the Judge did not share specifics on what might be covered in the program.

//COMMENT//

¶4. (C) Judge Garzon has been a storied and controversial figure in recent Spanish history, whose ambition and pursuit of the spotlight may be without rival. He has investigated everything from corruption in the former Spanish government of Felipe Gonzalez to alleged Dirty War atrocities committed by past Argentine governments, and even went after General Augusto Pinochet for genocide, terrorism, and torture. MADRID 00002282 002.2 OF 002
However, he has never prosecuted anyone associated with crimes committed during the Franco dictatorship. He clearly has an anti-American streak (as evidenced by occasional scathing editorials in the Spanish press criticizing Guantanamo and aspects of what he calls the "U.S.-led war on terror"), and we are certainly under no illusions about the individual with whom we are dealing. There is a very good chance that his documentary next month will indeed be a hatchet job on the U.S. However, Garzon has also doggedly pursued many important terrorist cases and there have been and will continue to be numerous areas where our interests overlap. For instance, Garzon is very active in investigating terrorist pipelines based in Catalunya that feed would-be suicide bombers to Iraq. One of these individuals was recently detained in Iraq before committing a terrorist act and Garzon will soon take his deposition. This Embassy has a good working relationship with Garzon and his door has always been open to the

Ambassador and members of our Country Team. Embassy Legat has tried to foster relationships with all six of the investigative magistrates, with varying degrees of success. Some are responsive to our outreach and attend Embassy-organized conferences and events, others do not. We will continue to explore ways to deepen our cooperation with these individuals, as Garzon is correct that they all wield significant authority and latitude to investigate and prosecute cases of interest to the U.S. AGUIRRE

ID:	135868
Date:	2007-12-28 18:04:00
Origin:	<u>07MADRID2305</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED
Dunno:	
Destination:	VZCZCXYZ0059 RR RUEHWEB DE RUEHMD #2305/01 3621804 ZNR UUUUU ZZH R 281804Z DEC 07 FM AMEMBASSY MADRID TO RUEHC/SECSTATE WASHDC 4012 INFO RUEHBS/USEU BRUSSELS

UNCLAS MADRID 002305

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STATE FOR EB/TPP/IPE (JURBAN, JBOGER) AND EUR/WE (ESAMSONO
STATE PASS USTR (JGROVES, CWILSON)
STATE PASS COMMERCE (ITA - DCALVERT)
STATE PASS USPTO (MSHAPIRO)
STATE PASS U.S. COPYRIGHT OFFICE (MSKELTON)

E.O. 12958: N/A

TAGS: KIPR, ECON, ETRD, SP

SUBJECT: SPAIN INTELLECTUAL PROPERTY RIGHTS (IPR) STRATEGY

REF: BOGER-SCHONANDER 12/6/07 E-MAIL

1. (SBU) This message is sensitive but unclassified and not for internet distribution.

2. (SBU) Summary: Given the USG's Special 301-related concerns with respect to the protection of copyrighted materials in Spain, the Embassy has developed a short, medium and long-term IPR strategy for Spain. The strategy is by no means exhaustive and is subject to continual review and suggestions, including from Washington agencies, but the strategy does provide something of a roadmap for where we want to go and how. While Embassy Madrid acknowledges modest efforts by the government to protect copyrighted materials, more needs to be done. Our strategy will require continued constant high-level Embassy attention to this matter and occasional help from Washington agencies over the coming three to four years. End Summary

COPYRIGHT PROTECTION PROGRESS REPORT

3. (SBU) For the first time, the GOS has asked Internet Service Providers (ISPs) to table a specific proposal for dealing with illegal internet downloads. Until now, the GOS has limited itself to brokering meetings between ISPs and

content provider representatives. The GOS has sent a letter to the Spanish Restaurant and Bar Association proposing an agreement to deal with sales of pirated products in bars and restaurants. In March 2007, the GOS released a report on the economic value of cultural products, thereby justifying the public case for protection. In 2007, there have been multiple police actions against pirates, including operators of websites trafficking in pirated products. The GOS notes that a number of these websites receive technical support in the U.S. Content provider representatives continue to express appreciation for police actions against pirates. On November 7-8, 2007, the government organized a well-attended IPR conference in Madrid. However, there is no functioning notice and takedown system for the internet. With more and more Spaniards enjoying broadband internet access, the number of illegal movie and music downloads will likely continue to increase. Street sales of pirated products remain high. The judiciary often does not act as aggressively against IPR pirates as is warranted. The Justice Ministry circular effectively decriminalizing not for profit, i.e. "consumer", peer to peer file sharing on the internet remains on the books.

SHORT, MEDIUM AND
LONG-TERM IPR STRATEGY

4. (SBU) Our short-term strategy runs from now until the March 9, 2008 parliamentary elections. There is no prospect of legislative achievements between now and the elections. Progress will have to be measured by action undertaken by the executive alone. Embassy intends to conduct the following activities.

- a) DCM will meet in January with the Secretaries of State for Industry, Culture and Justice.
- b) DCM will meet in January with PP economic platform coordinator Juan Costa to emphasize the importance of IPR issues to the USG.
- c) Econ and Commercial Service will meet in January or February with Telefonica lawyers to understand better the views of Spain's dominant ISP and discuss notice and takedown.
- d) We will take advantage of USPTO Senior Counsel Michael Shapiro's February trip to Spain to have him talk to GOS officials and, scheduling permitting, members of the Spanish judiciary.
- e) Econ will meet in February/March with stakeholders and ascertain opinions on Special 301 watchlisting.
- f) Econ/CS will use expected February visit of Commerce DAS for Europe to engage GOS officials on IPR matters.

5. (SBU) Our medium-term strategy runs from the March elections until the end of 2008. Our assumption is that a new government has about a year to get unpopular measures approved.

- a) Ambassadorial meetings in March/April with GOS officials on IPR.
- b) DCM meetings with GOS officials in March/April on IPR.
- c) Ambassadorial recommendation on Special 301 watchlisting.

- d) Econ to work with PA on International Visitor programs and judge-to-judge exchanges.
- e) Econ work to persuade GOS to adopt a functioning notice system prior to August 2008 holidays. Our assumption is that the GOS can start with notice, see how that works and then tackle takedown.
- f) Ambassador hosts Minister of Industry for lunch with stakeholders - copyright protection on the agenda.
- g) Urge GOS to incorporate explicitly improved IPR protection in achieving Spain's strategic objective of raising private sector investment in research and development.

6. (SBU) Our long-term strategy runs from 2009 until the end of the next government's mandate in 2012.

- a) Continued front-office emphasis on IPR issues.
- b) Engage with USEU Brussels on planned EU draft directive on "Creative Content Online" - ensure directive correctly transposed in Spain.
- c) Bring USG speakers to Spain on IPR.
- d) Consider GOS mission to the U.S. to study the possibilities that legal e-business offers.
- e) Encourage visit by U.S. Trade Representative to Spain.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>08MADRID98</u>	2008-02-01 10:10	2010-12-03 12:12	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

VZCZCXRO7083

RR RUEHAG RUEHAST RUEHDA RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA RUEHLN
RUEHLZ RUEHPOD RUEHROV RUEHSR RUEHVK RUEHYG

DE RUEHMD #0098/01 0321058

ZNR UUUUU ZZH

R 011058Z FEB 08

FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC 4164

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

RUEHUB/USINT HAVANA 0245

UNCLAS SECTION 01 OF 05 MADRID 000098

SIPDIS

SENSITIVE

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E.O. 12958: N/A

TAGS: OREP PREL ECON EFIN ETRD ENRG EINV SP

SUBJECT: CODEL MARTINEZ JANUARY 10-11 VISIT TO MADRID

¶1. (U) Summary: Codel Martinez had a busy and productive visit to Madrid January 10-11, 2008, meeting with the Prince of Asturias, Popular Party (PP) presidential candidate Mariano Rajoy, National Security Advisor Carles Casajuana (septel), former President Aznar, Foreign Minister Moratinos (septel), and Cuban dissidents Hector Palacios and Gisela Delgado. The Ambassador accompanied Senator Martinez in all of his meetings. Codel Martinez also attended a lunch organized by the American Chamber of Commerce where discussion focused on renewable energy and a dinner with the U.S.-Spain Council hosted by the Ambassador. In addition, Senator Martinez gave an interview to El Pais newspaper. Senators Grassley and Thune met with a senior official at the Ministry of Industry, Tourism, and Trade to discuss U.S. pork exports. End Summary.

Prince of Asturias

¶2. (SBU) Shortly after their arrival January 10, Senators Martinez, Grassley, Thune, and Craig were received by the Prince of Asturias at Zarzuela Palace. The Prince stressed the importance for Spain of maintaining excellent relations with the U.S. and his commitment to improving those relations. The Prince reminisced happily about his travels in the U.S. and expressed a great fondness for the country. He had clearly been following the U.S. Presidential primaries and sought the Senators' views on the process.

Mariano Rajoy

¶3. (SBU) The delegation met at PP headquarters with

presidential candidate Mariano Rajoy. Rajoy noted that with less than two months to go before the Spanish general elections, the polls showed him in a tie with Zapatero and his Spanish Socialist Workers' Party (PSOE). Rajoy said his campaign would focus on the economy, nationalism, and terrorism. On the economy, he said polls showed it to be the number one issue. Rajoy said Zapatero had lived for four years off the inheritance of the previous PP's government's good economic management. Rajoy said the macroeconomic indicators were still good, but people were beginning to feel the pinch of inflation running above the EU average. He also said interest rates were rising, a serious worry in a nation of 44 million with eight million mortgages. Rajoy said Zapatero had not defended Spain, the oldest national identity in Europe, from the demands of radical regional groups with nationalistic aspirations. On terrorism, Rajoy contrasted PP firmness with Zapatero's attempt to negotiate with ETA.

¶4. (SBU) In foreign policy, Rajoy said he would defend democracy, freedom, human rights, and Western values. He said Spain (and Europe) needed the best possible relationship with the U.S. Rajoy noted Spain had once been a reliable ally of the U.S. He promised that as President he would speak his mind and avoid surprises. Rajoy said Spain should play a significant role in Latin America and should promote democracy, freedom, and human rights in the region, which was suffering some unacceptable leaders at the moment. He said the PP position regarding Venezuela was well known: populism was not the direction the people of Latin America were moving. He expressed strong disagreement with Zapatero's Cuba policy and voiced concern over treatment of dissidents in Cuba. Rajoy noted Spain's position on Cuba was important within the EU. Rajoy insisted he would fulfill Spain's commitments abroad, which would be in defense of Western values. He said it was difficult but the public would understand the need for overseas engagement if the problems were explained to them. He said Spain would continue in Afghanistan, and noted the while in opposition the PP had supported sending troops abroad. Rajoy said the PP opposed Spain's 2004 withdrawal from Iraq, which he characterized as a mistake, albeit one that won the PSOE votes.

¶5. (SBU) Although he did not indicate he would make it a campaign issue, Rajoy noted Spain was number two in the world behind the U.S. in terms of the numbers of immigrants received. Over ten percent of the population was of foreign origin, and there was a large Muslim immigrant population. He said immigration was beginning to cause problems, as ordinary Spaniards saw their access to social services affected (he mentioned public health was 40 percent of Spain's budget). He said the PP was against illegal immigration and in favor of orderly migration flows. He condemned Zapatero's amnesty for nearly one million illegal immigrants, saying it had drawn new immigrants and noted that migratory pressures from Africa were only increasing.

¶6. (SBU) Rajoy mentioned that while Minister of Interior he was the first European minister to visit the U.S. after the

9/11 attacks. He said the West needed to invest more resources in educating people about democratic values. He criticized the Zapatero government's Alliance of Civilizations (AOC) effort, saying it was an electoral ploy. He said the left wing in Spain and elsewhere tried to use the popular media and entertainment figures to convince people that they favored peace while center right parties such as the PP in Spain favored war. He said this had to be countered through education.

¶7. (SBU) Asked about voter turnout, Rajoy said this was a big unknown. He said in 2000 the PP won an absolute majority in Congress. In 2004, they lost by about five percent because Zapatero was able to mobilize socialist voters using the Iraq war and the Atocha bombings. He characterized 2004 as a vote against the PP rather than for the PSOE. Rajoy predicted the anti-PP vote would not be there this year. He said the PP base was very loyal and would vote, so the question was many socialist actually turned out. He noted in 2004 polls should him eight points ahead the day of the Atocha bombings, and he lost by five points the following Sunday. Rajoy noted that the polls in the 2007 municipal elections predicted PP defeat. In fact, the PP won. He said turnout and loyalty were key. He claimed polls showed 85 percent of PP voters were loyal but only 72 percent of PSOE voters. He said his strategy was to reach out to the center and the opposition rather than to his base. He said this was to avoid mobilizing the PSOE base and increasing their turnout. Rajoy mentioned that convincing the media which supported the PP to avoid antagonizing the left was a challenge. Noting he had been campaign manager both times, he noted Aznar's 1996 campaign was aggressive whereas in the even more successful 2000 campaign the PP had behaved like nuns. Rajoy said the costs of campaigning in Spain were negligible compared to the U.S. He said in Spain, as opposed to the U.S., it was important not to let people know how much money you had raised since voters would turn against the candidate with the most money. He noted the parties were prohibited from buying advertising until the last two weeks, and so they had to earn media coverage in the meantime and were heavily focused on the internet, which he said was the only way to reach young voters. He said the party was commissioning two polls a month and would move to daily polling in the last two weeks (Rajoy joked that after long and intensive study of the science of polling he had concluded he knew nothing about polls). He said most of the PP money would be spent on radio and billboard advertising. He noted he was on the trail four out of every seven days. Rajoy said the debates, scheduled for February 25 and March 3, could be decisive since they came so late in the process. He mentioned that the PP was also hitting family issues, noting the PSOE favored gay marriage. Rajoy said there were 1.5 million absentee voters, a number he said was significant in terms of the Spanish electorate. He recalled that in a recent election the PP had lost a seat in Galicia because Hugo Chavez had sequestered the mail from Venezuela, which Rajoy was sure contained a heavy PP vote since Spaniards there were unhappy with the PSOE's failure to stand up to Chavez. Rajoy mentioned the PP had an office in Washington and their representative there was part of the party's governing committee. He also sought

the Senators, views on the U.S. Presidential campaign.

Jose Maria Aznar

¶8. (SBU) On January 11 CODEL Martinez held a wide-ranging discussion with former Spanish President Jose Maria Aznar that touched on the electoral outlook in Spain and the U.S., as well as Aznar's strong opinions on Kosovo, Turkey, and the Alliance of Civilizations. President Aznar told the CODEL that he held real reservations about Kosovo's independence, concerns he mentioned he had conveyed to Senator Lieberman the night before. Aznar said he believed international acceptance of a unilateral declaration of independence (UDI) would lead to three undesirable results: the de facto acceptance of changed borders in Europe as a consequence of "blackmail;" the establishment of a principle of self-determination that would have ramifications in Spain, Italy, Turkey, Iraq, and other states with minority populations; and the rise of nationalism on the European continent. Aznar said he feared the explosive mixture of nationalism and changing borders and would prefer Kosovo remain a protectorate for the next century rather than have a UDI be accepted by much of the international community.

¶9. (SBU) Aznar opined that Turkey's EU bid was impossible at present and would continue to be so for perhaps the next 15 years. The former president said that while Europe should certainly look to forge and maintain a special relationship with Turkey, it was hard for him to imagine a Muslim-majority country fitting into a Europe of Christian roots. He said

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that EU and U.S. leaders needed to consider just what the Turkey factor would mean to Europe with the addition of 100 million Muslims.

¶10. (SBU) Aznar voiced skepticism regarding the AOC. He said during his term in office he visited Iran and worked closely with former Iranian President Khatemi to establish a dialogue of civilizations, but that he could not see the desirability or feasibility of forming an alliance with figures such as Supreme Leader Khamenei. Aznar said that the AOC was not in the best interests of the West. He mentioned that he maintains good relations with Turkish President Erdogan and claimed to have it on good authority that Erdogan was taking an active role in Zapatero's AOC not because he necessarily believed in it, but because he hoped it would help Turkey's EU bid.

¶11. (SBU) Aznar concluded the meeting with a discussion of the role of his think tank, the Foundation for Social Analysis and Studies (FAES). He said that FAES was set up in the European liberal tradition and was intended to defend the values of the western world and an Atlantic policy. FAES seeks to strengthen the U.S.-EU pillar and believes that an Atlantic Europe is the only possibility for the continent.

Renewable Energy

¶12. (U) At a lunch on renewable energy hosted by the American Chamber of Commerce, the Senators and Spanish companies discussed the status of several forms of renewable and low-emission energy. Ambassador Aguirre and AmCham president Jaime Malet opened with remarks describing Spanish and U.S. leadership in the sector and emphasizing the amount of Spanish investment in renewables projects in the U.S. Ambassador Aguirre described the February renewable energy trade and investment mission post is organizing with the GOS to bring Spanish government officials and companies to the U.S. Senators Grassley and Thune discussed biofuels, which Senator Grassley noted were likely to shift away from the present emphasis on corn-based ethanol to cellulose-based ethanol after the next 5-10 years. Senators Grassley and Thune explained their states, favorable location for wind power (Iowa has Spanish investment in both wind farms and a wind turbine manufacturing plant), while Senator Martinez noted that the U.S., geographic variability meant that an identical national renewable portfolio standard for each state would be unfair to states such as Florida that lacked commercially viable quantities of wind. Senator Craig and Ambassador Aguirre emphasized the importance of technological advances in addressing energy dependence and climate change. Senator Craig described U.S. climate change policy, outlined the U.S. national energy laboratories, role in technological research, and reviewed issues related to nuclear and clean coal technology. Spanish company representatives described Spain,s system of incentives for electricity from renewable sources (Spain,s system is based on guaranteed prices, while U.S. incentives are mainly tax-related) and expressed interest in investment opportunities in the U.S. in electricity transmission as well as generation. Participants from both countries emphasized the importance of encouraging renewable energy as an alternative to dependence upon hydrocarbon imports from undemocratic suppliers.

Cuban Dissidents

¶13. (SBU) Senators Martinez and Craig, joined by the Ambassador and Deputy Chief of Mission, met January 11 with Cuban dissidents Hector Palacios and his wife Gisela Delgado. Palacios briefed the Senators on his personal situation saying he had been released from jail at the petition of the Spanish Government in order to come to Spain to receive medical treatment. While appreciated Spain,s help, he did not agree with Spain,s policy of engagement with the Cuban regime or with gestures such as the 2007 Moratinos visit to Cuba. He said he and his wife had made public statements critical of Spanish policy and as a result the Spanish had cut his per diem allowance and moved him to a cheaper hotel. He said Moratinos had not seen him and instead he dealt with the Director General for Iberoamerica.

¶14. (SBU) Palacios said political control in Cuba was fragmenting into three or four different groups. Fidel had been the glue that held it together. Each group had a somewhat different agenda their common goal was to stay in power. Palacios said Cuba was ripe for change. He said the

military would not be a major obstacle once change began because conscription meant that the military reflected the people. Also, Fidel's policy of rotating troops regularly underneath their officers had had its intended effect of

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preventing the formation of units personally loyal to their commanders. He said a greater problem would be the large system of repression Fidel had created (the Ministry of Interior, neighborhood committees, bands of thugs who attacked and intimidated dissidents). There were about 200,000 people in this system and they were the ones who lived well and who had a great deal to lose. Even those within government would find these people a formidable obstacle if they tried to promote change.

¶15. (SBU) Palacios said U.S. assistance was not reaching the dissidents. He noted the irony of being jailed as an agent of U.S. imperialism when the actual amount of USG funding was minimal. He said they ran into problems doing things as simple as finding the small amounts of money needed to bring dissidents from one part of the island to another to attend demonstrations. He said he planned to travel to Washington and Miami soon and intended to raise this issue in both places.

National Security Advisor Casajuana and Foreign Minister Moratinos

¶16. (SBU) Senators Martinez and Craig (joined by Senator Lieberman) met January 11 with Carlos Casajuana and discussed Afghanistan, Lebanon, Morocco, Cuba, and the AOC. Also on January 11, Codel Martinez met with FM Moratinos where the conversation touched on Afghanistan, the Middle East peace process, Syria, Venezuela, Cuba, and the AOC. Both meetings are reported via septels.

Agricultural Trade Issues

¶17. (SBU) On January 11, Senators Charles Grassley and John Thune, together with the Deputy Chief of Mission, AgCouns and EconOff, met with the Ministry of Industry, Tourism and Trade's Secretary of State for International Trade, Pedro Mejia, and Secretary General Alfredo Bonet. Senator Grassley emphasized the importance of science-based decisions in the agricultural biotechnology context. Mejia said that Spain had a relatively "liberal" view with respect to biotechnology. However, even in Spain the technology was controversial and faced NGO opposition, albeit not as strong as in some other EU member states. Senator Thune asked what influence Spain could exercise in Brussels on this issue. Bonet noted it was very difficult to get a qualified majority for biotech approvals in the EU Environment Council so in the end the Commission was taking decisions in favor of biotechnology. Both Mejia and Bonet noted that commodity price hikes might spur greater liberalization on biotech

imports. The Secretary of State asked about the status of the proposed elimination of the "splash and dash" tax credit loophole that allows biodiesel producers in the U.S. to import commodities such as soybeans, add a minimal amount of petroleum diesel, and then reexport the biodiesel. European producers have complained about these imports. The Senator promised to get back to the Secretary of State on the status of the proposed elimination of the loophole. Mejia said that he was pessimistic about the prospects for Doha because major developing countries were not willing to give sufficiently in terms of industrial and services market access; he emphasized especially Spain,s interest in better services access. He noted also that with high agricultural commodity prices, some developing countries now did not see why they should give on industrial goods and services access. He said that the U.S. was still under pressure to do more on domestic agricultural support. Spain's senior trade representative asserted that the EU had made a good agricultural access offer. The Senators expressed support for Doha but were pessimistic about getting support for Trade Promotion Authority (TPA) this year. Finally, there was a lively discussion of Secretary of State Mejia's February energy renewables trip to

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the U.S. Both Senators Grassley and Thune were very interested in the mission. (Comment: This was a very good substantive discussion. However, it is clear that while Spain will continue sometimes to vote in favor of biotechnology liberalization proposals, the Spaniards will tread warily on this issue given their own domestic sensitivities and other equities Spain has in the EU. It was interesting to hear Mejia,s strong emphasis on services as the future of Spain,s economy. Unfortunately, Spanish services companies have not been aggressive in promoting Doha, although this is true of many other services companies in Europe as well. End comment.)

Press Coverage

¶18. (U) ABC, EFE, Europa Press, and El Pais reported on the

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visit. El Pais published January 14 an interview with Senator Martinez focused on the U.S. elections, the Middle East peace process, and the need for democratic change in Cuba.

¶19. (U) Senator Martinez cleared this cable.

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ID:	142920
Date:	2008-02-25 17:42:00
Origin:	<u>08MADRID211</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED
Dunno:	07MADRID2128 08MADRID137 08STATE158938 08STATE30128 08STATE56080 08STATE9475
Destination:	VZCZCXYZ0029 RR RUEHWEB DE RUEHMD #0211/01 0561742 ZNR UUUUU ZZH R 251742Z FEB 08 FM AMEMBASSY MADRID TO SECSTATE WASHDC 4334

UNCLAS MADRID 000211

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STATE FOR EEB/IP (BOLGER, URBAN)
STATE PASS USTR (WILSON)
STATE PASS COMMERCE (ITA - DCALVERT)
STATE PASS USTPTO (MSHAPIRO)
STATE PASS U.S. COPYRIGHT OFFICE (MSKELTON)

E.O. 12958: N/A
TAGS: ECON, ETRD, KIPR, SP
SUBJECT: SPECIAL 301 SPAIN RECOMMENDATION

REF: (A) MADRID 00137 (B) STATE 09475 (C) 07 MADRID
02305 (D) STATE 158938 (E) STATE 56080 (F)
STATE 30128 (G) 07 MADRID 02128

1. (U) This cable is sensitive but unclassified. It is not repeat not for internet distribution.

2. (SBU) Summary: Embassy requests Washington agencies to consider an out-of-cycle review for Spain in October 2008. On March 9, parliamentary elections will be held in Spain and a new government will assume office in April. Even if the ruling PSOE is re-elected, we expect significant changes among officials responsible for IPR policy. We propose to tell the new government that Spain will appear on the Watch List if it does not do three things by October 2008. First, issue a GOS announcement stating that internet piracy is illegal, and that the copyright levy system does not compensate creators for copyrighted material acquired through peer-to-peer file sharing. Second, amend the 2006 "Circular" that is widely interpreted in Spain as saying that peer-to-peer file sharing is legal. Third, announce that the GOS will adopt measures along the lines of the French and/or UK proposals aimed at curbing internet piracy by the summer of 2009. As this message documents, the Embassy recognizes that the lack of sufficient Spanish progress during the past year could justify Spanish placement on the Watch List. Our out-of-cycle request is made with the view that proceeding in

this way be more likely to result in constructive action by the new government. End Summary.

SPANISH ACTIONS WITH
RESPECT TO THE SPAIN
SPECIAL 301 INITIATIVE

3. (SBU) While the Spanish government has been very receptive to technical advice from the USG (for instance in connection with its November 2007 Madrid IPR conference) on Internet Service Provider (ISP) liability issues, there has been no "meaningful action to update and improve Spain's e-commerce laws." Workable notice and takedown procedures have not been established. The "actual knowledge" standard demanded prior to requiring ISPs to remove illicit content from the internet remains operative. About a year ago, the government had proposed an amendment (Article 17 bis) to the Information Society Law which would have created a fairly robust notice system and an embryonic takedown procedure. The copyright-based industries approved of Article 17 bis. However, the Council of State rejected Article 17 bis on procedural grounds. The government did not subsequently try to resuscitate Article 17 bis because of very public opposition from Spain's internet surfer community (represented by the "Asociacion Internauta", which is headed by Victor Domingo). We suspect that Spain's Internet Service Providers (ISPs) were also pleased to see Article 17 bis die. Subsequently, the GOS revived the Ministry of Industry, Tourism and Trade and Ministry of Culture led working group for ISPs and content providers to see if some other solution could be found. The government has convoked several meetings during the year. Our content industry contacts tell us that the proposals that have been discussed in this working group have been significantly less ambitious than Article 17 bis. They are looking for leadership from the GOS similar to the leadership displayed by the French and UK governments with respect to notice and takedown. The copyright-based industries, which have been participating in these working group meetings for three years, say that, at some point, the government needs to pressure the ISPs to accept a great degree of responsibility for curbing piracy on the internet. In their judgment this has not happened so far. Our evaluation is that the copyright-based industries' perception is correct.

4. (SBU) The GOS has not established a working group to consider the feasibility of administrative sanctions for illegal internet downloads, although officials at the Ministries of Industry and Culture have considered the possibility.

5. (SBU) We see no evidence of greater centralized coordination of internet piracy investigations. However, local trade associations do not complain about the lack of centralization of police investigations into internet piracy. In fact, as in years past, local trade associations continue to praise the efforts of the police to combat both internet and street piracy. The issue remains that the judiciary does not issue deterrent-level sentences.

6. (SBU) The Fiscalia General's official instruction which

conveys the impression that peer-to-peer downloading is not a crime remains operative. However, on 2/7/08, when the DCM met with Spanish Secretary of State for Justice, Julio Perez-Hernandez (Deputy Justice Minister equivalent), he committed to comment in writing on this topic by 2/21/08 (ref A). He appeared to be unaware of the uproar that this Circular has generated. Also, the Teniente Fiscal del Tribunal Supremo (Deputy Fiscal General equivalent) appeared to be receptive to discussing the Circular during a 2/13/08 colloquium with visiting U.S. Patent and Trademark Office Senior Counsel Michael Shapiro. Government officials insist in meetings with Embassy officials that the Circular does not legalize peer-to-peer file sharing, and technically they are no doubt correct. The reality is though that during 2007 the public perception that the Circular decriminalizes peer-to-peer file sharing and downloading has continued to grow. The normally pro-government daily, El Pais, wrote about this in a January 12, 2008 article entitled: "About Internet Downloads." The article says that "peer-to-peer internet downloads are completely legal here." The article quotes lawyer Carlos Sanchez Almeida, who notes that there is not a single conviction against anybody for having conducted illegal downloads (Note: In fairness this is probably true for most EU Member States.) The problem though as the El Pais article points out is that Spain's internet surfing community constantly refers to the Circular to justify its conduct, and the "internautas" are not contradicted by government officials.

7. (SBU) A related problem with respect to peer-to-peer file sharing is the widespread view in Spain that the copyright levy system compensates for illegal internet downloads. During the November 7-8, 2007 GOS-organized Madrid IPR conference, a senior Ministry of Industry, Tourism and Trade official, Juan Junquera Temprano, specifically said that the copyright levy system does not constitute compensation for peer-to-peer file sharing. Other GOS officials have said this as well. But, this message has not been internalized by Spanish society. The background is that Spanish law (like many other continental European legal systems) permits "private copies" to be made from legally acquired copyrighted products. Copies obtained through peer-to-peer file sharing are by definition not covered by the private copy exception because they are not legally acquired. But this distinction is lost on most Spaniards. (Comment: Copyright levies are, in fact, not popular in Spain. The opposition conservative PP party has promised to abolish copyright levies if it wins the March 9, 2008 parliamentary elections. On balance, our copyright interests would probably be better served were Spain to abolish copyright levies as they constitute a distraction to our efforts to seeing creators being properly compensated. But given the private copy exception, which is a strongly established element in Spanish jurisprudence, Spain is likely to maintain a levy system for a number of years to come even if the PP wins the elections.)

8. (SBU) An agreement between the government and the Spanish Restaurant and Bar Association to post notices stating that the making available of pirated CDs and DVDs is illegal has

not been concluded. In 2007, the Ministry of Culture sent a letter to the association suggesting such an accord. We were told by a Ministry of Culture working-level contact that several meetings were held, but in the end they did not yield a result. "Mochileros" (vendors with backpacks) continue to enter into establishments to sell pirated CDs and DVDs. Our copyright-based industry contacts tell us that some local governments such as Barcelona, San Sebastian, and Marbella have made extra efforts against street piracy, which has also had the positive effect of limiting mochilero activity there. With respect to the "concerted action" items discussed in the demarche, we have requested statistics from the Spanish authorities. Street piracy clearly remains a problem in Spain, although the industry trade associations talk about internet piracy much more now than three or four years ago.

INDUSTRY TRADE ASSOCIATION VIEWS

9. (SBU) EconOff and visiting USPTO senior counsel, Michael Shapiro, met with Federacion Antipirateria (FAP) President Jose Manuel Tourne on 2/11/08. The FAP represents the movie and videogame industries. The Motion Picture Association of America (MPAA) supports FAP. Tourne recommends placing Spain on the Priority Watchlist. This posture springs in part from declining revenues for the businesses Tourne represents. This is clearest when it comes to DVD rentals. Rentals of DVDs declined 32% in 2007, compared with 2006. In 2003, the companies Tourne represented had a total of euros 413 million in revenues, which have declined to euros 274 million in 2007. The FAP President conceded that it is always debatable to what extent declining revenues are attributable to product people are not interested in, and to what extent piracy is responsible. However, given the growth of broadband internet penetration in Spain in the last couple of years, it is reasonable to assume that piracy is responsible for a significant part of the declining revenues. In June 2007, there were almost 5.9 million high-speed internet lines installed in Spain, representing a 28.7% increase over a period of a year. Tourne showed EconOff and Shapiro a widely used website in Spain called Hispavista that is used by many people to download movies. The site is by no means "undercover" in any way. In fact, it looks professional and aboveboard. Beyond strict business concerns, Tourne expressed frustration with the way the government has handled IPR matters over the last four years. The 2004 anti-piracy plan, unveiled with much fanfare, had not generated tangible results beyond a few publicity campaigns. Perhaps his greatest irritation was the GOS-sponsored stakeholder working group on notice and takedown, which he felt had been stacked against content providers. The FAP's priorities included provisions to permit filtering, and an independent authority (along the lines proposed by French President Sarkozy) to issue graduated responses against illegal internet downloaders, and a functioning notice and takedown system for the independent authority to work with. Tourne would like to see the penal code amended to make graduated sanctions against internet violators possible.

10. (SBU) EconOff and visiting USPTO senior counsel, Michael Shapiro, also met with Promusicae President Antonio

Guisasola, on 2/11/08. Promusicae represents the music business in Spain and is affiliated with the International Federation of Phonogram Industries (IFPI), which in turn is affiliated with the Recording Industry Association of America (RIAA). Promusicae recommends watchlisting Spain. In 2007, sales of DVDs in Spain declined by 27%, compared with 2006. The legal digital market in Spain remains relatively small. From Promusicae's perspective, the most damning statistic with respect to the digital market is that 80% of the legal market in Spain is for mobile phones, and only 20% regular internet downloads. In other words, in the mobile market, where illegal downloading is not possible, people pay for legal music. In the internet, where illegal possibilities flourish, the market is much less developed. Guisasola says that this 80-20 split between mobile and internet legal music business is most pronounced in Spain, but the Embassy does not have numbers that confirm this assertion. Promusicae's greatest frustration is that the notice and takedown stakeholder working group simply has not agreed upon solutions that address content provider concerns. At some point, and that point was reached some time ago in Guisasola's view, the government has to take the initiative. The music industry representative would like to see the Spanish government adopt a posture similar to that of the French and UK governments.

11. (SBU) EconOff discussed Special 301 with General Society of Authors and Editors (SGAE) Corporate Relations Director Pedro Farre on 2/13/08. Farre recommends the watchlist for Spain. SGAE is an almost entirely Spanish entity, although it has a relationship with the MPAA. This organization is Spain's biggest collectors' society and as such is one of the biggest defenders of the copyright levy system. But SGAE is also one of the most vocal critics of the lack of government actions against piracy. In fact, the numbers on piracy that SGAE uses suggest that Spaniards have among the highest rates of internet piracy in the world. The SGAE estimates on internet piracy come from the European Interactive Publicity Association (EIAA). According to EIAA, 58% of Spanish internet users download music and 52% download movies and/or videoclips from the internet. The EIAA says that the average in Europe for these activities is 37% and 20% respectively. We have no way of confirming these estimates, but it is nonetheless noteworthy that SGAE cites these estimates. The SGAE, while a vocal critic of the government on piracy matters, is also something of a pillar of the Spanish establishment. Its most prominent members tend more to the left, which helps explain why the conservative opposition proposes to eliminate the copyright levy system. In fact though, SGAE has become so vocal on the government's lack of action on peer-to-peer piracy that the Ministry of Industry recently excluded SGAE from the working group dealing with internet piracy. This is conceivably a sign that Spain's premier collection society is quite aware that over the medium-term, curbing piracy is likely to be even more important to its members than copyright levies.

12. (SBU) EconOff had a conversation with the Business Software Alliance (BSA) representative in Spain, Luis Frutos, on 2/8/08. The BSA is not calling for Spain to be watchlisted. Although software piracy levels in Spain remain

high, Frutos explained that the BSA is getting much of the cooperation it wants from Spain's Ministry of Industry, Tourism and Trade. This tracks with information from the Ministry itself; BSA is without a doubt the Ministry's favorite industry organization on these matters. The BSA is primarily interested in ensuring that computer distributors do not sell computers containing pirated software. Apparently the Spanish government is cooperating to ensure that this does not happen. The contrast between BSA's views on Spain and the music and movie trade associations is striking. A 2/7/08 interview in the leading business daily, Expansion, with Microsoft executive Txema Arnedo is illustrative. Arnedo is spearheading a one million euro anti-piracy effort. Currently, the software piracy rate in Spain is 46%, but he believes it can be brought down to 36% fairly quickly. He noted that in 1997 the software piracy rate in Spain was 75%, but that it was reduced by 25% in three years.

POLICE ACTIONS

13. (U) Industry trade associations continue to praise the actions of Spain's national and local police forces. There is no doubt that the police are active. The issue remains the lack of deterrent level sentencing for IPR offenders. We are still in the process of collecting full 2007 statistics. We offer the following, non-exhaustive, statistics for 2007 police activity.

Arrests

245

Confiscated Goods (clothes, shoes, luxury goods, cosmetics, cell phones, toys, electric door openers) 6.5million items
Closed Web Pages

14

Closed recording towers

20

Recorders

160

DVDs

65,000

CDs

45,000

The numbers demonstrate that Spanish authorities are far from passive regarding this problem. But the fact remains that the police interventions alone are not sufficient to deter IPR violations significantly. Many arrested people are held for a short period of time and then released, often to become repeat offenders. The closed web pages are interesting and reflect the police's increasingly sophisticated understanding of the internet. We know from press reports that at least several of the closed web pages trafficked in copyrighted materials, although internet piracy per se is not the Spanish

police's priority. The Spanish police focus especially on taking down web pages that deal in child pornography.

EMBASSY ACTION ON SPECIAL 301

14. (U) Over the past year, the Embassy has used the ref (D) demarche as the basis for our interactions with the Spanish government on IPR matters at both the policy and working levels. The GOS is aware of our specific IPR concerns. On 9/17/07, the Embassy coordinated a Washington-Madrid DVC on internet-related IPR matters, which was well attended by GOS officials. The Embassy also worked with Spanish authorities on their 11/7-8/07 IPR conference in Madrid (ref G). Associate Register of Copyrights David Carson and U.S. Patent and Trademark Office Senior Counsel Michael Shapiro attended that event and also lent their expertise at a U.S.-Spain bilateral (ref G) on 11/7/07, which was headed by DCM Hugo Llorens and Telecommunications Secretary of State Francisco Ros. In connection with the 2/15-18/08 Madrid art show (ARCO), Senior Counsel Michael Shapiro returned to Madrid and conducted conversations on internet related IPR matters at the Ministries of Industry and Culture.

15 (U) The DCM has encouraged the GOS to submit comments on this year's Special 301 process by conducting a 2/5/08 meeting with Ministry of Industry, Tourism and Trade Secretary of State for Telecommunications, Francisco Ros and

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a 2/7/08 meeting with Ministry of Justice Secretary of State Julio Perez Hernandez (ref A). A meeting had also been scheduled for 1/31/08 Ministry of Culture Subsecretary Maria Dolores Carrion Martin, but Carrion cancelled the day of the appointment because she was ill. The DCM also sent individually tailored letters, including once again, the Special 301 demarche (Ref D. Note: The relevant GOS authorities have received this demarche many times before, but we thought it was worthwhile emphasizing once again that the USG's inter-agency deliberations on Spain will be based largely on this demarche.) The letter to the Secretary of State for Industry emphasized notice and takedown; the letter to the Ministry of Justice the Circular; and the letter to the Ministry of Culture focused on an agreement between the GOS and the Spanish Restaurant and Bar Association on mochilero sales of pirated products.

16. (SBU) Secretary of State Ros told DCM that he was "worried" about illegal content on the internet. Once again though he suggested that it was very difficult to distinguish between legal and illegal content on the internet, saying that up to 70% of the content on the internet was generated by users. He said that legislation was not possible now because of the upcoming March 9 elections. Moreover, any action at this point would be hopelessly politicized. He complained, once again, that much of the illegal content on the internet is uploaded outside Spain. Ros agreed that French president Sarkozy's initiative was "very interesting", and he said that continued international conversations on internet piracy were very important. Ros said that changing Spanish consumers' "culture" would be very difficult. He

argued that, as in the case of the struggle against illegal drugs, it was more important to go after the supplier, rather than the consumer. He conceded though that Spanish internet users were very heavy consumers of illicit content.

17. (SBU) Per ref A, Hernandez told DCM that he was not very familiar with the issues surrounding the 2006 Circular to judges and prosecutors. However, he told DCM that he would provide written comments on the topic by February 21.

18. (SBU) The GOS has been put on notice at both senior and working levels regarding our Special 301 concerns. The Ministry of Industry, Tourism and Trade is preparing comments on the issue that will be provided the week of February 25. Like last year, the trade part of the Ministry of Industry, Tourism and Trade, headed by Secretary of State Pedro Mejia, is coordinating the Spanish position. Our sense is that the international trade elements of the Spanish government are most sensitive to a possible watchlisting, which is possibly why they are coordinating the Spanish comment on Special 301. We have not heard what arguments the Spanish government will make. We expect, however, the GOS to argue that it is up to the stakeholders to agree among themselves on how to regulate the internet.

COMMENT

19. (SBU) The Embassy recognizes that Spain may qualify for placement on the Watch List. The USG and U.S. stakeholders (and many Spanish stakeholders) have made good faith efforts to work with the Spanish government since it unveiled its anti-piracy plan in 2004. The results so far have not been sufficient. The government has acknowledged the problem, conducted publicity campaigns, conducted dialogues with stakeholders to promote inter-industry agreements, encouraged the police force to continue its good work, and works well with the software industry. Spain abides by its international patent-related commitments. However, we cannot point to a single major success of interest to our music and movie industries. This Embassy has consistently argued that Spanish IPR performance should be analyzed in the context of the other big EU economies. France and the UK are making moves on internet piracy that industry organizations praise. Italy is already on the Watch List. Our sense is that Spain is now closer to Italy, at least with respect to IPR performance of interest to the music and movie industries. Should Washington agencies decide to place Spain on the Watch List in April we would have no difficulties explaining why to our interlocutors.

20. (SBU) Our request to Washington agencies to consider an out-of-cycle review in October is predicated on the electoral timetable and our belief that this may be more likely to result in constructive GOS action. There will be a new government in Spain in April. Ideally, it should not have to be held responsible so soon after assuming office for the lack of action by the previous government. Should the socialists be reelected, there will likely be new governmental players responsible for IPR policy. Should the opposition conservative PP party win, it will certainly ask

us why it is being punished for the previous government's lack of action. (Note: Currently the two major parties are in a statistical dead heat according to most polls.) The Embassy has a short, medium and long-term IPR strategy for Spain (ref C). Our experience suggests that we need to put the pressure on whatever government is elected during its first year in office, so the short-term part of the strategy is the most critical piece. On balance, we think we would have a better chance getting a new government to move quickly on a public peer-to-peer announcement, the Circular and measures to stem internet piracy if we do not have to deal immediately with the resistance that could be sparked by placement on the Watch List. Our bottom line: consider giving the new government six months, and if does not perform, put Spain on the Watch List.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>08MADRID348</u>	2008-03-19 16:04	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

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PP RUEHAG RUEHROV
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FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 4523
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 3370
C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000348

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DEPARTMENT FOR EUR AA/S VOLKER AND EUR/WE

E.O. 12958: DECL: 03/18/2018
TAGS: PGOV PREL SP
SUBJECT: SPANISH ELECTION WRAP UP: ZAPATERO SET TO FORM
SPAIN'S NEXT GOVERNMENT AS PARTIDO POPULAR REVAMPS FOR THE
FUTURE

REF: MADRID 288 AND PREVIOUS

MADRID 00000348 001.2 OF 003

Classified By: DCM Hugo Llorens for Reasons 1.4 (b) and (d)

¶1. (U) The absentee votes are in, and recounts have taken place in the most contested districts of Spain. The final electoral numbers for Spain's 350-seat Congress are as follows. The ruling Socialist party of President Jose Luis Rodriguez Zapatero (PSOE) - 169, the main opposition Partido Popular (PP) - 154, the Catalan centrist party Convergence and Union (CiU) - 10, the Basque Nationalist Party (PNV) - 6, the Catalan Republican Left (ERC) - 3, the United Left (IU) - 2, the Canaries Coalition (CC) - 2, the Galician Nationalist Bloc (BNG) - 2, the Navarran/Basque party (Na-Bai) - 1, and the new party Union, Progress and Democracy (UPD) - 1.

//TIMELINE TO FORM THE NEW GOVERNMENT//

¶2. (U) The new Congress will meet for the first time on April 1 and President Zapatero will be given the opportunity to form a government. As his party fell seven seats short of an absolute majority, Zapatero will look to enter into a pact with one or more of the smaller parties to put him over the top. Depending on the demands of each of the smaller parties, there remains the chance that Zapatero may feel he has enough of a plurality to preclude having to forge a formal pact, choosing instead to form pacts "a la carte" as each new piece of legislation comes up for a vote. Zapatero

has consistently stated his preference to lead a stable government, making an "a la carte" situation less likely. The investiture debate is due to occur on April 7-8, and if all goes as planned and the King swears in Zapatero on April 9, the new cabinet of ministers would then be sworn in on April 10, and the first meeting of the new Council of Ministers would be held on April 11.

¶3. (C) No one doubts that Zapatero will end up being Spain's next president, but he may have trouble gaining the necessary 176 votes during the first round of investiture voting. This could change in the coming days, pending the results of PSOE negotiations with the smaller parties. At this time, the most likely scenario appears to be a pact with the PNV and their six seats, with the final vote to gain a majority in Parliament coming from any one or several of the numerous smaller parties that make up what is known as the "Mixed Group" (CC, BNG, IU, Na-Bai, ERC). As the leftist parties IU and ERC lost much of their power and influence with respect to the previous legislature, they probably would be willing to join Zapatero for a very small price. Reports surfaced in the press in the days following the March 9 election suggesting that the PSOE's natural partners in this new legislature were the Basque nationalists. PNV leaders visited the Embassy on March 12 and told us that they would be favorably disposed to an alliance with the PSOE. Contrary to post-election statements in the press, the PNV leaders told us there was some flexibility in their demands for a controversial referendum on the political status of the Basque people. The officials said that the PNV realizes that it suffered a severe electoral setback on March 9, and is in no position to make unrealistic demands if it wants to repeat its participation in a Zapatero government. These sentiments appeared to be confirmed by PNV President Inigo Urkullu on March 17, when he said publicly that his party would be willing to cooperate with the Socialists over the coming months and would consider standing down on its plans for a referendum in October of this year, provided that President Zapatero make sincere efforts to discuss the status of Basque autonomy.

¶4. (U) Although CiU could put the PSOE over the top without having to turn to the PNV and the Mixed Group, the PSOE's allies in Catalonia handily defeated CiU in almost every Catalan province, and there would be some pushback from these allies were Zapatero to consider forming a pact. In addition, CiU's demands for senior leadership roles in both the Congress and Senate (Spain's upper house) may be a deal breaker. Finally, Zapatero could gain a majority by forming a broad alliance exclusively with the remaining smaller parties (most are nationalist and/or leftist), but most analysts have ruled this out as a repeat of the weak and unwieldy coalition the president formed during the last legislature.

//PARTIDO POPULAR LOOKS TO PICK UP THE PIECES AND MOVE ON//

¶5. (SBU) Despite external speculation and pressure for his resignation after a second straight national election loss, Mariano Rajoy announced on March 11 during a meeting of the

PP's executive council that he would not resign as president of the Partido Popular. Rajoy said he would again present his candidacy for this position during the PP's National Congress in June, and the party's executive committee immediately expressed their support for the decision. Although Rajoy appears set to lead the party for the foreseeable future, he probably will look to reshuffle his team in efforts to improve the party's image. On March 13, PP Congressional spokesman Eduardo Zaplana announced that he would not remain in the post for a second term, in a move pundits and political leaders immediately signaled as the first casualty of the electoral defeat. Speculation has since arisen that the Secretary General of the party, Angel Acebes, may be on his way out as well. Zaplana and Acebes are considered right-wing members of the PP old guard, closely linked both to the Aznar administration and the controversial handling of the aftermath and investigation of the 2004 Madrid train bombings.

¶6. (C) In a separate announcement on March 13, centrist Madrid Mayor Alberto Ruiz-Gallardon said he had no plans to leave his position and would work for the good of the party in the coming years. After the Mayor had a public dispute with party leaders in January over his possible candidacy as Rajoy's number two, he said he would wait until after the elections to make a decision about his political future. Ruiz-Gallardon is seen as a more moderate member of the PP and has often had public disagreements with the party's more conservative members. The Mayor previewed this announcement in a private meeting with the Ambassador on March 12. Ruiz-Gallardon confirmed that he would be staying in office, and said that he would be taking steps to mend his relationship with Rajoy and hopefully return to the party's good graces. The Mayor and Rajoy were due to have lunch this week. The Mayor confirmed for the Ambassador that Rajoy was the PP's leader, as there were simply no other credible options. He said that someone like he or Madrid regional President Esperanza Aguirre could try and take over the party, but at the risk of splitting it right down the middle. He said that Rajoy staying put was the best way to minimize damage to the PP.

¶7. (C) Ruiz-Gallardon said that Rajoy would now take concerted steps to mold the party in his image and decouple it from the strong influence of Aznar. As an example, the Mayor said that Rajoy had asked Aznar not to participate in the March 11 executive council meeting. The departure of Zaplana and potentially Acebes may be further signs of Rajoy trying to distance himself from the PP's controversial past. Ruiz-Gallardon also told the Ambassador that Rajoy would take steps over the coming months to appear more "statesmanlike," and would temporarily cease his constant criticism of every Zapatero policy initiative. The Mayor also mentioned that Rajoy is considering a strategy whereby he would tell Zapatero that the PP will support him for 12 months, voting for his budget proposal and any other policy issue that does not cross PP "redlines," so that Zapatero would not need the support of the other parties. At

some point the pact would dissolve and Rajoy would be free to make a public announcement saying that his party had supported the president in good faith, but that his policies were leading Spain over a cliff and they could not in good conscience continue their support.

//COMMENT//

¶8. (C) Both main candidates departed for separate vacations on March 14 and will return after Easter to prepare for the new legislature. We will work closely with the new government (we expect several holdovers and a few new faces) to build on the progress we have made over the past three years. President Bush's phone call to President Zapatero and reported plans for the two to chat at the NATO summit in Bucharest are receiving positive play among our Spanish counterparts and the local press, and will serve as a positive base to our relations with the new government. We also will maintain good relations with our friends in the PP, while reminding them that it is in both U.S. and Spanish interests that we work well with the government in power. It will be interesting to see whether Rajoy actually pledges his support to the government as the Mayor suggested, but we doubt that Zapatero would accept this proposition with anything but the utmost caution. Rajoy may find himself walking a fine line between acting statesmanlike and changing the tone of political discourse in Madrid, while also remaining faithful to his traditional PP supporters, over 55 percent of whom want him to lead an even harder opposition to Zapatero in the new government, according to a recent poll

MADRID 00000348 003.2 OF 003

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AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>08MADRID518</u>	2008-05-09 16:04	2010-12-01 12:12	CONFIDENTIAL	Embassy Madrid

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 RUEHME/AMEMBASSY MEXICO 0670
 RUEHSP/AMEMBASSY PORT OF SPAIN 0172
 RUEHQT/AMEMBASSY QUITO 1413
 RUEHSN/AMEMBASSY SAN SALVADOR 1491
 RUEHSG/AMEMBASSY SANTIAGO 0517
 RUEHUB/USINT HAVANA 0270
 C O N F I D E N T I A L MADRID 000518

SIPDIS

E.O. 12958: DECL: 05/05/2018
 TAGS: PREL KSUM AR BL CO CU PE SP
 SUBJECT: WHA ASSISTANT SECRETARY SHANNON'S VISIT TO MADRID,
 APRIL 30-MAY 1, 2008

Classified By: CHARGE D'AFFAIRES HUGO LLORENS, REASONS 1.4(B) AND (D).

¶1. (C) WHA Assistant Secretary Tom Shannon visited Madrid April 30-May 1, 2008. He met with Secretary General of the Presidency Bernardino Leon and former President Jose Maria Aznar. He also attended a lunch in his honor hosted by Charge d' Affaires Hugo Llorens with Spanish private sector, media, and government experts on Latin America and gave interviews to daily El Pais and with Antena 3 TV. Leon stressed the need for the U.S. and Spain to work together in Latin America. Aznar emphasized the importance of Colombia and Mexico and urged the U.S. to maintain strong support for both. Both Leon and Aznar expressed concerns about Argentina.

Leon Stresses Desire to Work with U.S. in Latin America

¶2. (C) A/S Shannon and CDA Llorens met April 30 with newly installed Secretary General of the Presidency (and former MFA number two) Bernardino Leon. A/S Shannon told Leon the U.S. wanted to maintain continuity in policy towards Latin America through the next Administration. He emphasized the importance of strategic partners such as Spain, and thanked Leon for the effort he and MFA Secretary of State Trinidad Jimenez had made to work with the U.S. Leon said President Zapatero would need to make Latin America a foreign policy

priority and work it intensively. He suggested this was an area where Spain and the U.S. should coordinate closely and at the most senior levels. He said the strategic effort should be to work closely with countries such as Brazil, Chile, Colombia, and Mexico. Looking ahead to the new Zapatero administration, Leon predicted the opposition Popular Party (PP) might be more conciliatory than in the past. He said Zapatero would put more emphasis on foreign policy, and he stressed that good relations with the U.S. would be a priority. Leon mentioned he had met recently with foreign policy advisors to all three U.S. Presidential candidates. He suggested both governments should begin thinking about a meeting between Presidents Bush and Zapatero in September at the UNGA. Leon noted that this meeting with A/S Shannon was the first he had held with anyone outside the Spanish Government since assuming his new post.

¶3. (C) A/S Shannon explained the U.S. was looking forward to two key events: the OAS General Assembly (OASGA) in Medellin in June 2008 where the Deputy Secretary would lead the U.S. delegation and the Summit of the Americas in Trinidad and Tobago in April 2009. He noted Mexico and others were working to reduce tensions between Colombia and Ecuador in advance of the OASGA as well as to avoid disruptions by Venezuelan President Chavez. A/S Shannon said the Summit of the Americas would be the new U.S. President's first multilateral event with Latin America, and a major goal would be to put the summit process back on a positive track after the Mar de Plata experience. He indicated the Administration would continue to push its free trade agenda.

¶4. (C) Leon said Argentina was very worrisome. Spanish companies in Argentina were concerned by the populist tone of the government, political polarization, and the level of corruption. There were "complicated" people and movements around the presidency. He suggested some lived by the old adage that "a politician who is poor is a poor politician." He said there was much work for Spain and the U.S. to do with respect to Argentina and complemented President Bush for setting a positive tone with President Cristina Fernandez Kirchner. A/S Shannon mentioned that he had recently visited Argentina and that in June a USG team would visit Buenos Aires to reinitiate the lapsed high-level dialogue. The goal was to define the bilateral relationship by shared interests rather than by differences. He predicted strife between various Argentine sectors was just beginning; the agricultural strike was merely the first round. He said the Peronist tendency once a crisis was past was to look for wealth and figure out how to spend it. Ironically, the more complicated internal situation might lead the government to seek to mend fences internationally. He said the costs of too close association with Chavez were now clear to the GOA, as evidenced by Chavez's recent decision to nationalize the Argentine firm SIDOR.

¶5. (C) Leon said Spain hoped to use the EU-Latin America and the Caribbean summit in Lima in May to seek a trade pact where those Latin American countries who wanted in could be in and those who wanted out could stay out. The goal was to keep a country like Bolivia or Ecuador from dragging down the

others. A/S Shannon noted this might help with the U.S. Congress on the free trade issue.

¶6. (C) Leon said a post-Uribe Colombia raised concerns, although there were sensible people on the left (e.g., Polo Democratico leader Gaviria). He noted that post-Uribe, especially if the situation in Peru deteriorated, the Andean region would be even more problematic. He said Peru was a very key country.

¶7. (C) Leon said he was worried about Bolivia and the threat to Spanish business interests there. He predicted Morales would lose the May 4 referendum. A/S Shannon said the U.S. was looking past May 4 and talking to the group of friends (Argentina, Brazil, and Colombia) as well as the Vatican. He predicted the referendum results would provide greater legitimacy to the state governors and blunt the GOB's criticism of the opposition and the U.S. (he noted wryly that the GOB had blasted the U.S. Ambassador at the same time the Bolivian FM was in the U.S. seeking USG assistance). A/S Shannon said the governors needed to exercise caution and not be overly aggressive. The U.S. message was that we supported dialogue but not secession. He doubted secession would come to pass. He said the U.S. was also talking to the armed forces and urging them to work within the constitution. He noted the military understood the risk to it as an institution. Leon asked if the GOB was arming civilians. A/S Shannon replied that some such activity was possible, but he doubted it was on a large scale. He said some Morales advisors might be pushing confrontation in order to paint the provinces as rebellious, but the U.S. message was that the provinces had to work within the confines of the law. He noted the Bolivian FM was in Washington recently and tried without success to interest the OAS Permanent Council in a resolution condemning the provinces. Leon said Spain's message was complimentary: territorial integrity but respect for the provinces as political units.

¶8. (C) A/S Shannon noted New Mexico Governor Richardson had recently visited Caracas in connection with the three Americans in the hands of the FARC. Chavez told him the U.S. should help Morales and work with the governors to make sure Morales was not backed into a corner. This was unusual given Venezuela had in the past urged on Morales. It appeared Chavez might be genuinely worried about the turn matters could take in Bolivia. Leon said he too was nervous about the situation. He noted Spain would regard a deployment of troops or police to the oil installations as a very bad sign.

¶9. (C) Leon said it was essential that the next Iberoamerican summit (El Salvador in November 2008) move beyond the famous incident in Chile between King Juan Carlos and Chavez. He mentioned Zapatero would see Chavez in Lima to try and set the stage for a more positive summit. Regardless, there were no guarantees someone would not seek confrontation in El Salvador.

Aznar Looks to Colombia and Mexico

¶10. (C) A/S Shannon and CDA Llorens also met April 30 with former President Jose Maria Aznar. Aznar said he was worried about Latin America. He described what he called an anti-NAFTA, anti-Colombia FTA theme in the U.S. Presidential primaries. At the same time, he criticized an excessive emphasis on free trade and open markets in dealing with Latin America. Both were fundamental, but the U.S. also needed to focus on how it could isolate Chavez and also should keep a wary eye on Chinese and Muslim influence in Venezuela. He argued the U.S. and the EU needed to articulate a policy more understandable to the common people and more comprehensive. A/S Shannon agreed on the need to support civil society and NGOs in Latin America. He said many people in the U.S. had a

view of Latin America frozen in the 1990s, but the region was changing rapidly. The U.S. and Spain should be looking for catalytic ways of supporting democratic governance, civil society, and economic development. He noted that in the past the U.S. had sometimes ignored Latin America until a crisis arose; in contrast, President Bush had a record of solid engagement in the region.

¶11. (C) Aznar mentioned he had spoken with Mexican President Calderon before the New Orleans summit and Calderon had expressed concern about waning Congressional support for NAFTA and the Merida initiative. Aznar said failure of the Colombia FTA would be catastrophic. He said Uribe was the best friend the U.S. had in Latin America, and the end of the FARC was in sight. He noted both Chavez and Ecuadorian President Correa were implicated by information obtained as a result of the GOC operation against Raul Reyes. It was more important now than ever for the U.S. to support Colombia. Aznar said Colombia and Mexico were the key countries in the region. Aznar said the U.S. and Spain should be working together to get Mexico to be more active regionally. Although Brazilian regional engagement was positive, it needed to be complemented by more Mexican engagement. He urged the U.S. to continue supporting both Colombia and Mexico, saying that if Calderon and Uribe were successful, it would shift the entire region in a positive direction. A/S Shannon briefed Aznar on the Administration's continuing efforts to win approval for the FTA with Colombia as well as the Merida initiative, which represented a very constructive U.S. response to the concerns of Mexico and Central America regarding security and law enforcement. He also briefed Aznar on the New Orleans meetings and the emphasis Presidents Bush and Calderon and PM Harper put on a common vision for trade, security, and border management.

¶12. (C) Despite his worries for the region, Aznar noted many countries were doing well. He cited Chile, Panama, and Peru. Aznar said the electoral results in Paraguay were a good step; the ideological leanings of the new government would not make much of a difference. Aznar said Brazil appeared to have put populism firmly behind it. He described Lula as a mainstream figure, albeit one who presented a friendlier face to the disadvantaged. He urged that the U.S. and Spain support good governance regardless of whether it came from the left or the right.

¶13. (C) Aznar said the situation in Argentina was very

complicated. They appeared to be reverting to the vicious cycles of Peronism in which sectors with money were shaken down by the government. One interesting sign was the emergence of a more critical middle class, but Cristina Fernandez Kirchner was a disappointment. He had once hoped she would conduct a more sophisticated foreign policy, but she appeared now to be a puppet of her husband. A/S Shannon said Argentina was underperforming in terms of attracting foreign investment and was conducting an erroneous foreign policy. The last six years had seen economic improvement, but the Peronists again seemed to be looking for the money. Aznar agreed the growth had been notable, sustained in large part by favorable international commodity prices, but he said the recovery remained fragile. The GOA lacked credibility with the international business community, and the Argentine banking sector was weak. A/S Shannon hoped Argentina had learned a lesson from Venezuela's nationalization of the steel company SIDOR. Playing with Chavez was a good way to get burned. Nevertheless, he noted the GOA, for all its faults, was not in the same camp as Chavez. A/S Shannon and Aznar agreed it was important for the U.S. and Spain to remain actively engaged with the GOA and maintain a dialogue with it. A/S Shannon noted his recent visit there and the resumption of a regular, formal dialogue between the USG and GOA. Aznar applauded the initiative.

¶14. (C) Aznar praised President Bush's strong stance in support of a democratic transition in Cuba and his most recent speech on the subject. He said we needed to monitor carefully the steps Raul Castro was taking, some of which were in the right direction. Nevertheless, both the U.S. and the EU needed to stay on the record as promoting democratic transition and openly supporting civil society and the

dissidents. A/S Shannon noted the GOC was attempting to isolate the U.S. Aznar said anything the U.S., EU, and Spain could do to publicize the truth on Cuba would help. He cited the recent crackdown on the Damas de Blanco, noting the news in Cuba was more than just cell phones and computers. The public needed to know what was really happening. He said that was the way to keep the pressure on Raul Castro, whom he said should not be allowed to consolidate power. Fidel would continue to be an immobilizing element as long as he lived, but when he died, it might set in motion events Raul could not control.

Experts' Lunch

¶15. (C) Lunch at the CDA's residence brought together a variety of Latin America experts: Roman Escolano of BBVA; Jaime Malet of the Amcham; Alberto Carnero of FAES; Asis Martin de Cabiedes of Europa Press, Juan Luis Cebrian of Grupo Prisa, and Eduardo San Martin of ABC; and Javier Sandomingo, MFA Director General for Iberoamerica. The discussion was off the record and vigorous. Topics included Cuba, Venezuela, Mexico, the Colombia FTA, and Argentina. Sandomingo made a point of saying during the lunch and again afterwards in private that Spain would strongly prefer the U.S. did not try to split EU opinion on Cuba. A/S Shannon emphasized the need for the international community to work

together for meaningful democratic change and to continue to reach out to civil society and the dissidents. Several of the guests unconsciously echoed Leon's and Aznar's concerns about Argentina. Views on Venezuela were negative, especially on the economic situation. A/S Shannon used the opportunity to describe the Merida initiative, and he heard strong expressions of support for a U.S. FTA with Colombia.

Comment

¶16. (C) We were especially struck by the emphasis Bernardino Leon laid on cooperation with the U.S. in Latin America. His move from MFA to the Presidency is rumored to have been prompted by Zapatero's dissatisfaction with the functioning of his first-term foreign policy apparatus. Reportedly his "odd man out" experience at the NATO Summit in Bucharest was the last straw. Leon is a credible player on foreign affairs and well-disposed towards the U.S. Having him in a key position at the Presidency bodes well as does the resonance of Spanish views with our own on most things Latin American. Cuba will continue to be the exception, at least when it comes to tactics, but on a great many other important issues in the Western Hemisphere we believe Spain is genuinely interested in working with the U.S. and highly values A/S Shannon's continuing attention. Aznar remains well-briefed on Latin America, knows the players, and frequently travels to the region, all good reasons for U.S. officials to stay in touch with him.

Llorens

Reference ID	Created	Released	Classification	Origin
<u>08MADRID537</u>	2008-05-14 08:08	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

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INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 3420
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000537

SIPDIS

DEPARTMENT FOR EUR/WE

E.O. 12958: DECL: 05/13/2018

TAGS: PGOV SP

SUBJECT: SPAIN: TURMOIL WITHIN THE PARTIDO POPULAR--CAN
RAJOY HOLD ON?

MADRID 00000537 001.2 OF 002

Classified By: CDA Hugo Llorens for Reasons 1.4 (b) and (d)

¶1. (U) Two months after suffering a second straight defeat at the hands of President Jose Luis Rodriguez Zapatero, opposition Partido Popular (PP) leader Mariano Rajoy finds himself in the midst of a crisis that threatens the future of his party leadership. In the days following the March 9 general election, Rajoy announced that he would remain the PP leader--reminding Spanish citizens that Jose Maria Aznar lost two elections to Felipe Gonzalez before finally winning in 1996--and received the public support of nearly every senior party official. Rajoy then took steps to soften the party's tone and remake it in his own image, in an attempt to dilute the influence of Aznar. To that end, he eased out Congressional spokesman Eduardo Zaplana and Secretary General Angel Acebes and announced he would be taking the party in a new direction.

¶2. (U) The cracks in PP unity began to show on April 7, when Madrid Regional President (U.S. governor equivalent) Esperanza Aguirre refused to rule out a challenge to Rajoy at the upcoming party conference in June. The potential for a challenge to Rajoy's leadership was a major news story in Spain for the next several days, with some in the PP even discussing the feasibility of conducting a U.S.-style primary system to choose the party's next leader. Rajoy and his supporters tried to douse any speculation of a leadership change, but the crisis has not gone away. More wood was added to the fire on May 12 when the popular PP leader in the Basque Country, Maria San Gil, announced that she would not serve again on the committee drafting the party's political

program because she no longer had confidence in Rajoy or his team. Immediately after this announcement, senior party officials including Aguirre, Acebes, Madrid Councilwoman (and wife of President Aznar) Ana Botella, and former Aznar Interior Minister Jaime Mayor Oreja, expressed their support for San Gil's decision and called on Rajoy to reflect on the current turmoil within his party. For the first time since the March 9 elections, we are now hearing serious speculation that Rajoy may not be able to hold on to power.

¶3. (C) During the week of May 5 (in the middle of the controversy over the future of Rajoy's leadership but before the uproar caused by the San Gil announcement), the Charge d'Affaires held separate meetings with Gustavo de Aristegui, PP Congressional Spokesman for Foreign Affairs, and Jorge Moragas, PP Director of International Relations and a key Rajoy advisor. Aristegui was very critical of Rajoy's actions in the wake of the electoral loss, saying that he seemed to be blaming everyone but himself for the results. He said Rajoy's actions to force out Zaplana and Acebes and bring in a new team were akin to the captain of a ship, not only abandoning ship, but leaving his crew in the sinking vessel. Aristegui said that Rajoy's lack of loyalty to those who had been with him all along was not sitting well with other PP leaders. He opined that Rajoy needed to open up the June party conference and allow all interested officials to present their candidacy for PP leadership. He said that if Rajoy was able to defeat challengers in a fair and open process, his leadership would no longer be questioned. Aristegui said that Rajoy may be able to maintain control beyond the June convention, but opposition to his leadership would grow if the PP does poorly in the next rounds of Spanish regional elections in the Basque Country (currently scheduled for April 2009) and Galicia (June 2009). It should be noted that Aristegui perhaps feels personally betrayed since Rajoy has clearly demoted him in the party's foreign policy circles.

¶4. (C) As expected, Moragas was more upbeat in his comments to the Charge and, while acknowledging that there were currently concerns about Rajoy's leadership, predicted that the party would eventually fall back in line. He said that in the coming weeks Rajoy would attempt to remain above the fray and look towards the next four years in opposition by issuing position papers on topics such as the economy, security, and regional issues. He said that President Zapatero and his Socialist government were in for a very rocky way ahead with the economy continuing to tank and key issues in Catalonia and the Basque Country coming to a head. He said it is more vital than ever for the party to remain united and seize the moment when Zapatero stumbles. Moragas said that he and Rajoy developed a close working relationship during the campaign and that he is now one of Rajoy's closest advisors. He added however that he was not a "Rajoy guy," but rather a loyal party member who responded when asked to serve.

//COMMENT//

MADRID 00000537 002.2 OF 002

¶5. (C) Rajoy does not possess great charisma, and many were surprised when former President Aznar hand-picked him as his successor in 2003. Many more were surprised when Rajoy did not bow out five years later after a second straight electoral loss. We believe Rajoy owes his longevity as much as anything to the lack of a credible successor within his own party. Would-be challengers such as Esperanza Aguirre, Madrid Mayor Alberto Ruiz-Gallardon, or Valencia Regional President Francisco Camps all have their own drawbacks, and none enjoys the national stature of Rajoy (and both Ruiz-Gallardon and Camps appear to still be backing Rajoy). However, a groundswell of opposition may be building. Maria San Gil's public criticism of Rajoy's leadership was certainly noteworthy, but maybe more so is the number of senior PP leaders coming out of the woodwork to express solidarity with her, and to call on Rajoy to seriously respond to the current unease among the party faithful. Rajoy may hold onto power for the time being due to the lack of a viable alternative, but we agree that further losses in Spain's regional elections over the next two years will make it difficult for him to remain the PP's national candidate in ¶2012. PP leaders have traditionally been members of Congress due to the visibility afforded and the need for the opposition leader to be able to confront the sitting president directly in weekly debates, but some credible voices are mentioning the name of former IMF director and past Spanish Vice President Rodrigo Rato (now in the private sector) as a possible candidate to lead the party into the future.

Llorens

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Date:	2008-05-14 17:11:00
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UNCLAS MADRID 000542

SENSITIVE
SIPDIS

EUR/WE FOR ALLEGRONE AND SAMSON
L/LEI FOR PROPP, KULISH AND JOHNSON

E.O. 12958: N/A
TAGS: PREL, PGOV, MARR, SP
SUBJECT: SPAIN/COUSO CASE: NATIONAL COURT DISMISSES CHARGES
AGAINST THREE U.S. SERVICEMEN

REF: A. 2007 MADRID 1000
B. 2007 MADRID 26

1. (SBU) On May 13, Judge Javier Gomez Bermudez, President of the Criminal Division of the National Court, and Javier Zaragoza, Chief Prosecutor of the National Court, phoned Charge Llorens and informed him that earlier in the day the National Court handed down a decision dismissing the case against three U.S. servicemen charged with war crimes in the June 2003 death in Baghdad of Spanish television cameraman Jose Couso. Press reports appeared later in the day confirming the 3-1 ruling of the four-judge panel, and the Embassy was able to obtain a copy of the legal decision in Spanish (electronic copy forwarded to L). On May 14, the Charge spoke again with Judge Gomez Bermudez, who emphasized the Spanish judiciary's commitment to rule on this case based on the facts and the law and not on the prevailing "political and media winds." The Judge said the red notices and arrest warrants against the servicemen were no longer in force. He also clarified for the Charge that the court's ruling "provisionally" archiving the case (rather than giving it a "permanent" filing) is actually to our benefit because it precludes the case being appealed to the Spanish Supreme

Court. The Charge also spoke with Chief Prosecutor Zaragoza, who reiterated that he never thought the Spanish judiciary had legal jurisdiction over this (very weak, in his words) case and was disappointed when the Supreme Court ruled otherwise in late 2006 (REFTEL B).

2. (SBU) Our Embassy legal advisor has briefly reviewed the case and agrees with Judge Gomez Bermudez' conclusions that further appeals are not possible. She said that the ruling is described as a "preliminary dismissal" (sobreseimiento provisional). Such a ruling applies when one of the following situations occurs: 1) A judge rules that it has not been duly proven that an offense has been committed or 2) When a crime is judged to have been committed but there is no evidence to accuse a specific person. Under the Spanish Criminal Code, this type of dismissal has no further appeals. Although we will have a better understanding of the ramifications of the decision after more careful review, yesterday's ruling appears to be good news and hopefully is one of the final steps needed to bring this long saga to a close. The ruling states that the ultimate decision to dismiss the case must now come from the examining magistrate. According to the Embassy's legal advisor, unless the magistrate can find specific intent on the part of the servicemen to "terrorize" (a requirement of the Spanish Criminal Code to judge a crime of war), he will have to close the case. The family of Jose Couso announced after the ruling that they still plan to press forward and will try to appeal to the Supreme Court. They also said they have unidentified "new witnesses" who will soon come forward to testify and hopefully reopen the case.

//COMMENT//

3. (SBU) The Couso family is understandably very emotionally attached to this case, and they are supported by a variety of left wing causes and organizations in Spain. It is not likely that yesterday's ruling, however legally devastating it may have been to their side, will convince them to give up. All indications from our contacts within the Spanish judiciary and Embassy's legal advisor suggest that this case can go no further; the indictments have been revoked and the arrest warrants invalidated. We will report further as warranted on Couso family efforts to try and keep this case open. It would also be useful to confirm that Interpol and Europol diffusions on the three individuals have been removed, allowing them once again to travel freely.

Llorens

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UNCLAS SECTION 01 OF 11 MADRID 000552

SENSITIVE
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DEPARTMENT FOR EUR/WE, ALSO FOR INR/B

E.O. 12958: N/A
TAGS: PGOV, PINR, SP
SUBJECT: SPANISH CABINET MEMBER BIOGRAPHIES - ZAPATERO'S
NEW TEAM

REF: MADRID 449

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1. (U) SUMMARY. President Zapatero's center-left Spanish Socialist Workers' Party (PSOE) was the victor in the March 9 general election. This cable gives brief biographies for the cabinet members in Zapatero's second administration. Overall, the cabinet reflects Zapatero's campaign promises to focus on innovation, equality and the environment. This is the first Spanish cabinet with more women than men. Several key players from the first Zapatero administration will keep their jobs, including Vice Presidents de la Vega and Solbes, Foreign Minister Moratinos, and Interior Minister Rubalcaba. An important change is the shift of Carme Chacon from Minister of Housing to Minister of Defense. Two new Ministries have been added: a Ministry of Equality and a Ministry of Science and Innovation. Other Ministries were restructured. For example, The Ministries of Environment and Agriculture merged. The Ministry of Education, Social Affairs and Sports restructured to include social affairs, but gave up its science portfolio. The Labor Ministry assumed responsibility for immigration affairs. Biographies will be posted to the Embassy Madrid Intellipedia page for future reference and periodic updates. END SUMMARY.

2. (U) Zapatero's new cabinet is:
First Vice President for the Presidency Maria Teresa Fernandez de la Vega;
Second Vice President for Economy and Finance Pedro Solbes;
Minister of Foreign Affairs Miguel Angel Moratinos;
Minister of Justice Mariano Fernandez Bermejo;
Minister of Defense Carme Chacon;
Minister of Interior Alfredo Perez Rubalcaba;
Minster of Public Administration Elena Salgado;
Minister of Public Works (Fomento) Magdalena Alvarez;

Minister of Environment and Marine and Rural Environs
(Agriculture) Elena Espinosa;
Minister of Equality Bibiana Aido;
Minister of Education, Social Affairs and Sport Mercedes
Cabrera;
Minister of Labor and Immigration Celestino Corbacho;
Minister of Industry, Tourism and Commerce Miguel Sebastian;
Minister of Science and Innovation Cristina Garmendia;
Minister of Housing Beatriz Corredor; and
Minister of Health Bernat Soria;
Minister of Culture Cesar Antonio Molina.

Maria Teresa Fernandez de la Vega
First Vice President, Minister of the Presidency,
and Spokesperson of the Government

3. (U) Maria Teresa Fernandez de la Vega continues as First Vice President for a second term. In 2004, she became the first woman to occupy a Vice Presidency in Spain. As Vice President and Minister of the Presidency, de la Vega coordinates the "political" ministries with a primary focus on Justice, Defense, Equality, Education and Foreign Affairs.

4. (U) During the 2000-2004 legislature, de la Vega served as PSOE Secretary General in Congress and led the opposition party's attacks against the PP's Aznar administration. In this position, she also coordinated the PSOE members in Congress to achieve a unified legislative program. She has been elected as Congresswoman three times: in 1996 for Jaen, in 2000 for Segovia, and in 2004 for Madrid.

5. (U) From 1994-96 de la Vega served as Secretary of State for Justice with Justice Minister Alberto Belloch, a position she held until 1996. During that time she managed the reform of the Penal Code. De la Vega promoted the active participation of State prosecutors in criminal investigation, while maintaining the ultimate control of magistrates in the judicial process.

6. (U) De la Vega began her political career with the Catalan Socialist Party, but in 1979 moved her affiliation to a political movement called "Justicia Democratica", a group of judges, prosecutors, and lawyers that played an important role in Spain's transition to democracy after Franco's regime. When the Socialist Party (PSOE) won its first national elections in 1982, de la Vega served as Chief of Cabinet to Socialist Minister of Justice Fernando Ledesma. In 1985 she was appointed Director General of Services in the Justice Ministry and under her leadership the number of judges doubled. From 1988 to 1990 she worked in the Secretariat of Labor Magistrates and in 1990 she was appointed spokesperson of the General Council of Judicial

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Authority.

7. (U) She was born in Valencia in 1949. She studied Law and received her PhD from the University of Barcelona. She taught Labor Law at the University of Barcelona. She is a specialist in Human Rights and International Juridical Cooperation with additional training from the University of Strasbourg.

Pedro Solbes

Second Vice President and Minister of Economy and Finance

8. (U) As Vice President for Economic Affairs, Solbes is supposed to exercise control over all the economic decisions of the GOS, except foreign and domestic trade, tourism, and energy, which fall to the Ministry of Industry, Tourism, and Commerce.

9. (SBU) Solbes had reportedly seriously considered leaving the government at the end of Zapatero's previous term. He is 65, and his wife wanted him to retire. Zapatero convinced him to stay, and his presence on the ticket was considered to be an important appeal to the business community, some of whose members have portrayed Solbes as the only bulwark preventing Socialist ministers from overspending. Zapatero is reported to have promised Solbes increased authority.

10. (SBU) In Zapatero's first term, Solbes often was at odds with the economic office of the presidency, which tended to favor more interventionist policies. Sebastian has now been named Minister of Industry, Tourism, and Commerce, and individuals linked to Sebastian have been named to other ministries. After Sebastian's appointment was announced, Solbes told the press, "I am the Economic Vice President. I am the one who makes decisions on economic policy. I am the one who signs the economic draft laws. This is a coalition government between me and the rest." Solbes had clashed with Sebastian in 2005-06 over the German company E.ON's bid to acquire Spain's Endesa; Solbes had not objected to the bid, while Sebastian influenced GOS attempts to block the bid and later helped broker the eventually successful purchase by Italy's Acciona and Spain's Acciona. After Zapatero was re-elected, Solbes had reportedly asked Zapatero to give him the energy portfolio as well, but the portfolio remained in Sebastian's ministry.

11. (U) Solbes has traditionally emphasized the importance of fiscal responsibility and maintaining Spain's budget surplus. With the economy expected to grow much more slowly in 2008, unemployment rising, and inflation relatively high, he will face pressure to spend more, and he has emphasized for months that the budget surpluses of Zapatero's first four years have given the GOS more margin to maneuver in the difficult times expected ahead. He already has announced 10 billion euros in tax cuts and spending increases for 2008, with about 8 billion expected for 2009. He also will be expected to address the housing slowdown, which has increased unemployment and caused serious difficulties for construction and real estate firms, along with their creditors.

12. (U) A civil servant since 1968, Solbes, in 1982 as Technical Secretary General, was one of the seven people who negotiated Spanish accession to the European Community. He was Secretary General of Economy and Finance from 1982 to 1985 and Secretary of State for European Community Relations starting in 1985. He was named Minister of Agriculture, Food and Fisheries in 1991 and Minister of Economy and Finance in 1993. In September 1999, Solbes became the European Commissioner responsible for Economic and Monetary Affairs. He earned praise for his sense of duty and his courage for denouncing the institutional rupture that occurred when the Council of Ministers refused to sanction France and Germany for exceeding European Stability & Growth Pact budget deficit limits.

13. (U) Pedro Solbes was born in Pinoso (Alicante province)

in 1942. He graduated in European economy from the Universite Libre de Bruxelles and earned a degree in law and a doctoral degree in Political Science from the Complutense University of Madrid. He is married to Pilar Castro Rodriguez and has three children (Teresa, Miguel and Lucia). He speaks French and English.

Miguel Angel Moratinos
Ministry of Foreign Affairs

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14. (U) Moratinos begins his second term in the Cabinet as the Spanish democracy's second-longest serving Foreign Minister. In the presidential investiture debate, Zapatero said that one of his priorities will be the Sub-Saharan Africa and in next few months, Moratinos is tasked with arranging high-level summits with Morocco and Algeria. Moratinos traveled to several Latin America countries in April to forge ties in advance of the May EU-Latin America Summit. Some of the pending issues Moratinos faces from the last legislature are Spanish foreign service reform, development assistance credits reform, and construction of a new building to house his Ministry, which is currently in leased spaces.

15. (SBU) Moratinos was one of the key players behind the Madrid 1991 Peace Conference and considers himself an expert in Middle East policy. From 1991 to 1993, he was Director General of the Institute for Cooperation with the Arab World. From 1993 to 1996 he was Director General of Foreign Policy for North Africa and the Middle East. During the 1995 Spanish EU Presidency, Moratinos managed all Middle East policy issues and was a frequent interlocutor with Washington. In June 1996, he was appointed Ambassador to Israel, a position he held for only six months. In December 1996, he was appointed Special Representative of the European Union (EUSR) for the Middle East Peace Process. Moratinos managed the EU's relationship with Israel and Palestine, as well as other states in the region like Syria, Lebanon, Jordan, and Egypt. However, he created a perception that he maintained closer ties with Yassar Arafat than with Prime Minister Sharon. While Moratinos participated in the MEPP Quartet meetings, Israelis reportedly considered Moratinos excessively favorable to the Palestinian cause. Moratinos left the EUSR position in July 2003. His name was mentioned as a possible candidate for the UN High Commission for Human Rights following the death of Sergio Vieira de Mello. However, in October 2003 Moratinos returned to the Ministry of Foreign Affairs.

16. (U) Moratinos began his diplomatic career as Spain's Chief Director for the Eastern European Coordination Desk in 1974-1979. He was First Secretary at the Spanish Embassy in Yugoslavia, where he later served as Charge d'Affaires from 1980-1984. He was Political Advisor in Rabat (1984-1987) and Deputy Director General of North African Affairs in the Ministry of Foreign Affairs (1987-1991).

17. (U) Moratinos joined the Socialist Workers' Party (PSOE) in 2000 and in 2004 and 2008 won election as a Congressional delegate representing his hometown of Cordoba.

18. (U) Miguel Angel Moratinos was born in 1951. Moratinos

holds a degree in law and political science and a diploma in international studies from the Spanish Diplomatic School. He is fluent in English and French. He understands Russian and Serbo-Croatian.

Mariano Fernandez Bermejo
Minister of Justice

19. (U) Mariano Fernandez Bermejo was appointed Minister of Justice in February 9, 2007, and is retained as a member of the new cabinet. The strong recommendation of Vice President Fernandez de la Vega ensured Fernandez Bermejo's appointment and he is expected to strengthen rapport and cooperation between the Ministry, the Prosecutor's Office and the Interior Ministry. He is reported to have a good working relationship with Interior Minister Rubalcaba and Secretary of State for Security Antonio Camacho.

20. (SBU) As a founding member of the Progressive Union of Public Prosecutors, Fernandez Bermejo is considered to be the guardian of the PSOE's judicial policy. Fernandez Bermejo will manage and attempt to inject change into a judicial system in which some "conservative" judges have not been supportive of GOS-sponsored initiatives, including homosexual marriage and autonomous community statutes.

21. (U) First-ranked in his professional certification exams, he began his career as a prosecutor in 1974 in Santa Cruz de Tenerife, then worked in territorial courts in Caceres and Segovia. From 1986 to 1989 he was Advisor to Minister of Justice Fernando Ledesma. In 1989, he was appointed Prosecutor of the Supreme Court. From 1992-2003, Fernandez

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Bermejo served as Chief Prosecutor of the Madrid High Court of Justice. In 2004, he became Prosecutor of the Supreme Court.

22. (SBU) Fernandez Bermejo is known for taking tough stands and speaking out on issues. He is the only prosecutor who has taken a Minister to Court. In another example, when he led opposition to the Rapid Justice Law, the PP-led government retaliated by passing a law limiting prosecutors to five-year terms instead of lifetime appointments (effectively moving Fernandez Bermejo along in the system). Expressing his unhappiness with the PP maneuver at the time, Fernandez Bermejo said, referring to the Spanish Civil War and Franco's regime, "we fought against the parents, and now we have to fight against their children."

23. (SBU) He is considered to be a strong personality, not given to conciliation, and with a tendency to harsh assessments. "I am a leftist, and I behave like one," he admits. Perhaps due to these traits, Fernandez Bermejo has not received the support of the Concejo Fiscal, the advisory body that reviews judicial appointments, in either of his positions at the High Court or Supreme Court. According to the media, many Ministry of Justice civil servants, the judicial secretaries, and the judges believe that Fernandez Bermejo, while focused on policy matters, has not fulfilled his promises on wages or work conditions.

24. (U) Born in 1948 in Avila, Fernandez Bermejo received a Doctorate in Law from the Complutense University in 1969,

followed by an advanced degree in Community Law in 1998. A Public Prosecutor since 1974, he is an expert on Penal Law. Fernandez Bermejo does not speak English.

Carme Chacon (new in this Ministry)
Minister of Defense

25. (U) Carme Chacon is the first woman Minister of Defense in Spanish history. She served as Housing Minister from 2007 to 2008 and also was First Vice President of Congress from 2004-2007. Her cabinet appointment was the surprise in Zapatero's second administration amidst widely varying speculation regarding who might be awarded the plum job. Zapatero made it clear he intended to put in place a broadly representative cabinet and Chacon brings ties to the Catalan constituency as well her deep-rooted PSOE political credentials. Jose Montilla, Secretary General of the Catalan Socialist Party (PSC) has been one of Chacon's strongest supporters. Chacon was one of the PSC members of Zapatero's "new team" after he won the PSOE party congress in 2000.

26. (SBU) Chacon lacks experience in military affairs (the same could be said of most of her predecessors), but she is reportedly viewed by Zapatero as a strong manager. Chacon was quick to visit Spanish troops deployed in Afghanistan and Lebanon and she is expected to visit Kosovo in the near future. Chacon served as an OSCE international observer in Bosnia-Herzegovina in 1996 and Albania in 1997. Her other credentials include representing the Socialist delegation in Spain's bipartisan Anti-terrorism Pact. She reportedly has a strong rapport with Interior Minister Rubalcaba.

27. (SBU) There was some buzz in conservative circles about Zapatero choosing a MOD who was a "pacifist." Asked about the label in a recent newspaper interview, Chacon said, in essence, that if being a pacifist meant valuing peace, then she was a pacifist. She went on to express her admiration for the Spanish troops she had just visited in Afghanistan.

28. (SBU) Chacon's priorities will reportedly be the Spanish military missions abroad, modernization, and personnel restructuring. The personnel restructuring will be a particular challenge as some senior officials disagree with plans to reduce the number of generals and there is controversy over proposals to adjust Spanish troop levels in Ceuta and Melilla.

29. (U) Carme Chacon was born in Espulgues de Llobregat, Barcelona, in 1971. She has a Law Degree from the University of Barcelona (1994) and a PhD Cum Laude for a thesis on federalism and human rights. Her post-graduate studies include: Victoria Manchester University (UK), Instituto de Federalismo de Friburgo (Switzerland), Osgoode Hall Law School of Toronto, University of Kingston, and the Universite Laval of Montreal (Canada). She has been professor of Constitutional Law at the University of Girona, Spain. She is

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an expert in federalism and Quebec's status within Canada. She is married to Miguel Barroso, the Director of Casa America and himself a Zapatero insider. They are expecting their first child in June. Chacon speaks English.

Alfredo Perez Rubalcaba
Minister of Interior

30. (SBU) Interior Minister since 2006, Alfredo Perez Rubalcaba is Zapatero's main advisor on terrorism issues. He is also one of the six members of Zapatero's core team (the others are de la Vega, Solbes, Deputy Chief of Cabinet Jose-Enrique Serrano, Cabinet Aide Vidal Zapatero (a cousin), and PSOE campaign manager, Jose "Pepe" Blanco) that meets once a week to formulate policy. Rubalcaba is regarded as a skilled negotiator and parliamentarian. Beside the fight against ETA and Islamic terrorism, his other challenges will include perceptions that common crime is on the rise, continuing efforts to reduce traffic deaths and long-standing wage and work status disputes in the police forces.

31. (SBU) One of Rubalcaba's toughest jobs will continue to be overcoming the historic rivalry between Spain's principal police forces, the Civil Guard and National Police, both of which fall under his direction. Rubalcaba reportedly tried but failed to bring the Spanish intelligence service DNI under his control (it is currently in the MOD).

32. (SBU) Rubalcaba has played influential roles in PSOE internal operations and he directed electoral strategy for the PSOE's 2004 campaign. After the March 2004 elections, Rubalcaba was appointed PSOE's overall spokesman in Congress and maintained good personal rapport with his PP-counterpart Eduardo Zaplana despite many harsh political confrontations, a testament to his equanimity. Within the PSOE party structure, Rubalcaba is not close to Zapatero insider Pepe Blanco, and their relations can be tense. Some say Rubalcaba is the "Lord of the Government," and Blanco is the "Lord of the Party."

33. (SBU) During the Aznar administration, Rubalcaba served as PSOE's Media Relations Secretary and was lead negotiator on the bipartisan anti-terrorist pact and the political parties law. He served as Education Minister from 1992 to 1993 after several years in key advisory roles. In 1993 he was promoted to Minister of the Presidency and of Relations with the Parliament, in addition to being Government Spokesman (a period he describes as "the three worst years of my life.")

34. (U) A member of Congress since 1993, Rubalcaba is reputed to have a good sense of humor. The media also notes Rubalcaba's strong work ethic, willingness to undertake additional assignments, and negotiation skills. According to the press, his friends praise his ability to resolve contentious issues and calm excited colleagues. His enemies describe Rubalcaba as manipulative and quick to exploit the weaknesses of others.

35. (U) Rubalcaba was born in Solares (Santander) in 1951. He joined the Madrid Socialist Federation in 1974 and became interested in politics near the end of the Franco regime. With his Doctorate in Chemistry from the Complutense University of Madrid, he taught Organic Chemistry there, as well as at the University of Contanza (Germany), and the University of Montpellier (France).

Elena Salgado
Ministry of Public Administration

36. (U) Appointed Minister of Public Administration on July 6, 2007, Elena Salgado brings breadth and depth of experience to her portfolio. Enjoying a reputation for sound fiscal management, in this legislature she will have to deal with the extremely complicated local corporation funding law, facilitating an accord between the PSOE-led government and the PP-led opposition, and then negotiating its implementation between the national government, the autonomous communities, and the local governments. Salgado will also be charged with implementing Zapatero's announced reform of State Administration.

37. (U) Salgado served as Health Minister of Health from 2004 to 2007, tasked with managing federal health and

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pharmaceutical spending and expanding public health services. Salgado's efforts were deemed responsible for the unanimous passage of the smoking ban in workplaces and public spaces in 2005. During her stint at the Health Ministry, the press termed Salgado, "Minister Anti", referring to her positions against alcohol, smoking, and obesity. The Spanish Government presented Salgado as a candidate for the World Health Organization Presidency in September 2006, but she was not elected.

38. (U) Elena Salgado served as Secretary General for Communications in the Ministry of Public Works, Transport and Environment with Minister Jose Borrell in President Felipe Gonzalez's administration. She helped transform the National Postal Office and participated in the telecommunications liberalization process. She served as a member of the Board of Telefonica Hispasat, Retevision and Correos. She also approved the Sogecable (Prisa) and Telefonica merger to create Cablevision, although the proposal was rejected by the European Commission, leading to Cablevision's eventual dissolution.

39. (U) Her other public service credentials include Director General for Personnel Costs and Public Pensions in the Economy Ministry and Finance and Director of Studies in the Small and Medium Business Institute in the Industry Ministry. In 1996 she was President of the Lyric Theatre Foundation that manages the Royal Opera House. While she is not a PSOE member, Salgado does have close ties with party loyalists including Interior Minister Rubalcaba and her former boss Jose Borrell.

40. (U) In the private sector, Salgado served in advisory capacities with Arthur Andersen (1999-2000), Lenci Consulting SL (1997-2000), and the Social Council of the Universidad Politecnica (1999-2002). In 2002, Salgado was appointed CEO of Vallehermoso Telecom, but the press reported she was let go because she was too intransigent. In September 2003, Salgado was named President of 11811 Nueva Informacion Telefonica, the Spanish branch of the German multinational Telegate AG.

41. (U) Elena Salgado was born in Orense in 1949. She has a degree in industrial engineering with a specialization in Energy from the Universidad Politecnica, and another in economics from the Complutense University. Most of her professional life has been in the telecommunications world. She speaks English and French.

Magdalena Alvarez Arza
Minister of Public Works (Fomento - also translated as
Development)

42. (SBU) Returning for her second cabinet term, Minister Alvarez is responsible for the government's 15-year, 250-billion euro plan to expand the high-speed rail (AVE) and road networks, which the GOS says will give Spain more kilometers of high speed rail lines than any other country. She was widely criticized in 2007 after prolonged delays in the construction of the AVE line between Madrid and Barcelona, with the deaths of construction workers and construction accidents that interrupted service on several of Barcelona's commuter lines for six weeks. In November 2007, the Catalan legislature approved a motion calling for her resignation, and the national Senate approved such a motion in December. A similar motion in the national Congress (the more influential lower house) failed by only three votes in November. In addition to difficult relations with Catalonia, she also has had a tense relationship with Madrid Autonomous Community President Esperanza Aguirre. Many observers had thought it likely that Zapatero would replace Alvarez after the election. While she is known for her loyalty to Zapatero, some local press posit that the powerful President of Andalusia, Manuel Chaves, played a role in maintaining Alvarez's cabinet position. Wags claim Chaves recommended her to Zapatero years ago to get her out of Andalusia and he insisted Zapatero keep her in the cabinet (and in Madrid) in his second term. The eventual opening of the Madrid-Barcelona line just before the election, along with the opening in late 2007 of AVE lines to Malaga and Valladolid may have reduced the pressure on Alvarez.

43. (SBU) Alvarez, who joined the PSOE in 1997, served as a key advisor as Zapatero prepared his 2004 election bid. She has worked as a university economics lecturer and at positions in the Ministry of Economy and Finance and the

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state agency of tax administration. She was councilor for economy and finance in the Andalusia Autonomous Community government from 1994 to 2004, developing a reputation for expertise on regional finance issues. According to the press, her husband, Juan Manuel Gonzalez-Aurioles, is director general of Emgrisa, a business related to the uranium enrichment and nuclear energy sector. Alvarez was born in San Fernando, Cadiz in 1952. She has an undergraduate degree and a PhD. in economic and business sciences, the former from the Complutense University of Madrid and the latter from the University of Malaga. She understands and speaks some English but prefers not to use it in meetings.

Elena Espinosa
Minister of Environment, Rural, and Maritime Issues (merger
of Environment and Agriculture)

44. (SBU) Elena Espinosa was named Minister of Agriculture, Fisheries and Food when Zapatero took office in 2004. Most recently, she was voted a deputy in the National Congress in the 2008 election.
At the start of Zapatero's second administration, Espinosa's ministry absorbs the functions of the former Environment

ministry. The Agriculture Ministry, under her leadership, had been generally supportive of agricultural biotechnology, while the former Environment Ministry had generally opposed it. Espinosa takes on responsibility for Spain's drought and related water issues. She also gains responsibility for climate change, which has been elevated to having a separate secretary of state (deputy minister). She may have a role in deciding next steps as Spain's nuclear power plants approach the end of their scheduled operation; Zapatero has said that Spain will close the plants, but in recent weeks he has appeared to leave the door open for reconsideration. Espinosa has not taken anti-nuclear positions.

45. (U) Espinosa's public service began in 1985 in Vigo, Galicia under Felipe Gonzalez's PSOE-led government. From 1988 through 1996, Espinosa was president of the Port Authority of Vigo, an active port that is the home to Spain's largest fishing fleet. Espinosa introduced port reforms that set her against the local PSOE party leadership. In 1996, Espinosa served as labor advisor at the Galician Institute of Technical Medicine. She returned to the private sector and was the number two at the Rodman shipbuilding group from 1998 to 2004.

45. (U) Born in March 1960 in Galicia, Espinosa holds a degree in business and economics from the University of Santiago de Compostela. She is married. She does not speak English.

Bibiana Aido (new)
Minister of Equality (new Ministry)

47. (U) A new face in the Spanish cabinet, as head of a newly created Ministry, Bibiana Aido's challenges include establishing the new equality law, developing the dependent's law, and expanding social coverage for legal immigrants. The new ministry will incorporate the government's Youth Institute and the Women's Institute along with existing programs geared at ending violence, increasing the presence of women in the public life and the private sector workplace.

48. (U) Bibiana Aido will resign from the Andalusian Parliament seat she won in the March 2008 elections. A PSOE card holder since 1995, she is Secretary of Equality of the PSOE's Executive Commission of Cadiz. From February 2003 to July 2006 Aido served in the Andalusian regional Ministry of Culture and from July 2006 to March 2008 she directed the Andalusian Agency for the Development of Flamenco. According to the media, Andalusian President Manuel Chaves considers Aido as one of his potential successors. For that reason, Chaves supported her candidacy for a national-level political position that would bring her additional public recognition. Interior Minister Rubalcaba is also one of her mentors.

49. (U) Born in Cadiz in 1977 to a politically active family, she has degrees in Business Administration from the University of Cadiz and in International Business Administration from the University of Northumbria in Newcastle (UK). Aido speaks English.

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Mercedes Cabrera Calvo-Sotelo

Minister of Education, Social Policy, and Sports (Ministry reorganized)

Mercedes Cabrera was appointed Minister of Science and Education in 2006 and will continue her work in the re-organized Ministry during Zapatero's second term. This Ministry now manages social policy that was previously directed in the former Labor Ministry (now Labor and Immigration Ministry). Cabrera will have to implement the Law of Dependence and Law against Gender Violence passed during the last legislature in coordination with her colleague, Equality Minister Aido. The Ministry lost its control over Spanish universities, which are now transferred to the newly created Ministry of Science and Innovation.

In addition to her work reorganizing the Ministry's scope of work, Cabrera faces many of the same challenges including implementing the controversial "Citizens Education Curriculum," that is viewed by the opposition party as an "indoctrination" program and that has been contested in Courts by parents and parent associations. Cabrera will also manage efforts to minimize the Catholic Church's unhappiness for taking "catholic religion" out of the national curriculum.

A long-time Zapatero confidant, Cabrera helped write the PSOE 2000 electoral program. She attended Colegio Estudio of Madrid. She received a doctorate in 1977. She became a university professor in 1996 and currently teaches at the University of Complutense. She has written a number of articles on business, politics, and economics, and has participated in an important number of conferences about history and economic in Spanish and foreign universities. Mercedes Cabrera Calvo-Sotelo was born in Madrid in 1951. She is married to Carlos Arenillas. She was the niece of Leopoldo Calvo-Sotelo, the recently deceased former President of Spain.

Celestino Corbacho Chaves (new)
Minister of Labor and Immigration (Ministry reorganized)

A new member of Zapatero's cabinet, Celestino Chaves adds value with his close ties to the Catalan Autonomous Community. Active in national PSOE political structures since 2000, from 2004 to 2008, he headed the Barcelona provincial government. Celestino Corbacho is the longtime mayor of the municipality of L'Hospitalet de Llobregat, a Barcelona suburb that has one of the highest concentrations of immigrants in Spain, with a reported 22.7 percent in 2006. He has been a member of the Socialist Party of Catalonia (PSC) since 1976 and has held several leadership positions in the PSC. He was elected a L'Hospitalet city councilor in 1983 and was mayor from 1994 until 2008, being re-elected most recently in 2007. He served in the Catalan autonomous community legislature from 1992 to 1999 and was a member of the board of directors of the Federation of Municipalities of Catalonia from 1995 to 2004. Between 1999 and 2003 he was the President of the Metropolitan (Barcelona) Transportation Entity. Corbacho was born in Valverde de Leganes, Badajoz, on November 14, 1949. He is married with no children.

Miguel Sebastian Gascon
Minister of Industry, Tourism, and Commerce

Miguel Sebastian is a Zapatero loyalist who was Director of the Economic Office of the President, with rank of Secretary of State (vice-minister), from 2004 until late 2006. He left that position when he accepted Zapatero's request to be the PSOE's candidate for mayor of Madrid in the 2007 election. He was not expected to defeat the popular PP incumbent Alberto Ruiz-Gallardon, and his clear defeat does not seem to have damaged his influence over policy within the PSOE. In his Presidency position, Sebastian clashed with Second Vice President and Finance and Economy Minister Pedro Solbes, generally taking more interventionist positions than Solbes. Sebastian was closely involved in the GOS' efforts to prevent the German electric utility E.ON from purchasing Spanish utility Endesa, and he was reported to have helped broker the eventually successful bid by the Italian company Enel and Spain's Acciona to acquire Endesa. In the weeks after the March 9 election, he has been reported to be encouraging

MADRID 00000552 009.2 OF 011

deals among Spain's energy companies that would prevent France's EDF from taking over Spain's Iberdrola. As Minister of Industry, Tourism, and Commerce, he has formal responsibility for energy regulation, and he has named a former subordinate at the Economic Office of the President, Pedro Marin, to be Secretary General of Energy. (Solbes had reportedly sought to gain responsibility for energy in this government.) Two of the new ministers, Science and Innovation Minister Cristina Garmendia and Housing Minister Beatriz Corredor, are said to be Sebastian allies.

Sebastian was born on May 13, 1957. He has a degree in Economic and Business Sciences from Madrid's Complutense University and a PhD. in economics from the University of Minnesota. His doctoral studies were partially financed by a Fulbright Scholarship. He has worked in the planning office of the Economy and Finance Ministry and the Central Bank's economic studies office. In the private sector, he was Director of Studies (chief economist) for Banco Bilbao Vizcaya Argentaria (BBVA) and its predecessor. He is viewed as a competent and pragmatic economist who is also a PSOE partisan and is likely to take political considerations into account in setting policy. He speaks English and has emphasized the importance of encouraging Spaniards to learn English.

Cristina Garmendia Mendizabal (new)
Minister of Science and Innovation (new Ministry)

Cristina Garmendia is a biotechnology business executive who is connected to new Minister of Industry, Tourism, and Commerce Miguel Sebastian. From 2005 through 2008 she was in the science and technology office within the Office for Economic Affairs of the President that was headed by Sebastian from 2005 through 2007. Sebastian is reported to have recommended her selection to President Zapatero. Some political analysts have speculated that her selection is also a reward for the excellent results the PSOE obtained in the Basque Country in the 2008 elections; Zapatero's previous Cabinet did not include any Basque ministers. According to press reports, she is not a member of the PSOE. Garmendia's ministry is a new one that has taken portfolios from several other ministries, including the Ministries of Health and Education. Press reports have described its creation as a

sign of Zapatero's emphasis on encouraging research and development in order to boost Spain's productivity over the long term and contribute to economic growth. After being named Minister, Garmendia told a reporter that her ministry would work with the business sector, universities, and the public sector to take full advantage of scientific knowledge.

Garmendia is from San Sebastian in the Basque Country. In 1985 she received an undergraduate degree in biology with a specialization in genetics from the University of Seville. She obtained a PhD. in molecular biology from the Autonomous University of Madrid. In 1992 she received an Executive MBA from the University of Navarre's Institute for Higher Business Studies (IESE). From 1992 to 2001, she worked in the business development area of the Group Amasua, a fishing industry group, leaving as executive vice president and financial director. In 2000 she was a co-founder of the medical biotechnology company Genetrix, the first company that emerged from research work conducted by Spain's National Center for Biotechnology. She was president and CEO of Genetrix from 2000 to 2008. She has been president of several other biotechnology companies and is president of the board of the Inbiomed Foundation, which has the first bank of adult stem cells in Spain. From 2005 to 2008, she was president of the Association of Biotechnological Enterprises (ASEBIO). Since 2006, she has been a member of the board of directors of the Confederation of Business Organizations (CEOE) umbrella business chamber. She has served on several academic, hospital, and foundation boards, professional bodies, and prize juries. She serves on the board of the foundation of the Botin banking family, members of which control San Sebastian-based Banco Santander and Madrid-based Bankinter. In January 2008, she was awarded the "Golden Drum," San Sebastian's highest honor, for the positive contribution she has made to the image of the city. Garmendia was born February 21, 1962. She is married with four children. She has traveled to the U.S. on business frequently and speaks English.

Beatriz Corredor (new)

MADRID 00000552 010.2 OF 011

Minister of Housing

Beatriz Corredor replaces now-Defense Minister Carme Chacon as Housing Minister. Corredor is reported to be a political ally of new Minister of Industry, Tourism, and Commerce Miguel Sebastian. She obtained a law degree from the Autonomous University of Madrid in 1991 and passed the examinations to become a member of the Body of Registrars at a relatively young age in 1993. She has held office at land registries in Valencia de Alcantara, Caceres; Campillos, Malaga; and Lillo, Toledo. She has lectured on law at the Universities of Castile-La Mancha and Ciudad Real and has spoken at seminars on issues such as mortgage clauses and secondary mortgage markets. She was the first woman board member for the examination to become a Registrar. She joined the PSOE in 2003 and became the Madrid City Councilor for Housing in September 2007.

As Housing Minister, Corredor will have to address the aftereffects of Spain's multi-year housing boom and its sudden end in 2007; both the high prices that have made

housing expensive for many Spaniards and the rapid decline in housing construction. She will seek to implement efforts begun by Chacon -- who was only Minister for nine months -- to make housing more affordable by providing income-tested subsidies to young renters by making it easier for property owners to evict tenants for nonpayment of rent. Corredor also will seek to increase the amount of housing built with public subsidies, which may be a way to help the many real estate and construction companies that are in financial difficulties.

Corredor was born in Madrid in July 1968. She is married and has three daughters. She speaks and understands basic English but needs an interpreter for nearly all purposes.

Bernat Soria Escoms
Minister of Health and Consumption

Minister of Health since July 2007, Soria emphasized the importance of increasing Spanish research and development in his first term. Press reports indicate that in Zapatero's second administration, this aspect of his ministry's portfolio has been shifted to the new Ministry of Innovation and Technology.

Soria is a medical doctor (University of Valencia) and a leading expert on stem cells. He has worked extensively in the U.S. and has a very positive image of the U.S. He coordinated the European Embryonic Stem Cell Network, taught physiology at Pablo de Olvide University in Alicante, and directed the Andalucian Center of Molecular Biology and Regenerative Medicine in Seville. From 2001-05, he conducted research in Singapore after the Health Ministry (during the Aznar government) opened a case against him for conducting research on stem cells acquired in the U.S. in apparent violation of Spanish law. He also has worked in laboratories in the UK, Belgium, Germany, and Switzerland, as well as the U.S. He has received many professional awards and presided over several professional societies. Born in Carlet, Valencia in 1951, he is married with two children. He speaks English.

Cesar Antonio Molina
Minister of Culture

Minister of Culture since July 6, 2007, Cesar Antonio Molina will continue his work on the Digital Canon, a Spanish tax levied on electronic devices, including blank DVDs, computers, IPODS, etc., that are capable of reproducing digital material. The tax revenues fund the powerful Spanish Authors Association and the law's application and funding distribution remain a controversial topic. Molina will also focus on grants for the Spanish film industry and expanding Spanish language internet usage.

Previously, Molina directed the Cervantes Institute from 2004-2007. From 1996 to 2004 he directed the Circulo de Bellas Artes. From 1985 to 1996 he worked for "Cambio 16" magazine and for "Diario 16" newspaper, and he has written for the newspapers El Pais, La Vanguardia, and La Voz de Galicia. In 2005, the French Government named him "Gentleman of Arts and Letters". Molina has published about thirty

books, mostly essays, prose, and poetry. According to the media, Molina is well educated, diplomatic, and considered a facilitator. He does not have a PSOE membership card, but his family has a long association with socialist political groups.

Cesar Antonio Molina was born in A Coruna in 1952. He has a degree in Law from the University of Santiago, and a PhD "Cum Laude" in Journalism from the Complutense University. He has a degree in Italian Language and Literature from the University of Perugia, and belongs to the French and Spanish International Associations of Literary Criticism. Molina has been Professor of Literary Theory and Critic in the Complutense University, and of Humanities and Journalism at the Carlos III University in Madrid.

Llorens

ID:	158610
Date:	2008-06-18 06:36:00
Origin:	08MADRID678
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	08MADRID568 08MADRID610
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C O N F I D E N T I A L MADRID 000678

SIPDIS

DEPARTMENT FOR ELAINE SAMSON, EUR/WE
OSD FOR COL PATRICK MCCLELLAND

E.O. 12958: DECL: 06/17/2018
TAGS: PREL, PGOV, MARR, NATO, SP
SUBJECT: SPANISH DEFENSE MINISTER CHACON RECEIVES U.S.
AMBASSADOR

REF: A. MADRID 610
B. MADRID 568

Classified By: Ambassador Eduardo Aguirre, for reasons 1.5 (b) and (d).

1. (C) SUMMARY: New Spanish Minister of Defense Carme Chacon, who took office April 14 but has been on maternity leave since May 19, told Ambassador Aguirre during a congenial one-on-one breakfast meeting June 10 that she looked forward to working with the United States and would like to meet with her U.S. counterpart when an opportunity presents itself. The two discussed the bilateral defense relationship, with special emphasis on Spanish overseas deployments, especially Kosovo and Afghanistan. Chacon and the Ambassador also covered the June 3 congressional notification of the sale of Tomahawk missiles to Spain; the status of Spain's request for the LAIRCM aircraft protection suite; U.S. use of the Spanish bases of Moron and Rota, including ship visits and sensitivities related to Gibraltar; NATO enlargement; and opportunities for Spanish cooperation with the U.S. Africa Command (AFRICOM). Minister Chacon described herself as a friend of the United States, as evidenced by her eagerness to meet with the Ambassador even before she returns to work o/a June 30. The very friendly meeting lasted 90 minutes and included the presentation by the Ambassador of a stuffed animal Bald Eagle chick for Minister Chacon's newborn son. END SUMMARY.

2. (C) Minister Chacon told the Ambassador she would like a pull-aside with Secretary of Defense Gates at the next NATO defense ministerial opportunity. While interested in seeing Secretary Gates, Chacon did not foresee traveling to the United States. Note: Spanish Secretary General for Defense Luis Cuesta had told the DCM on May 29 that MOD Chacon (because of her maternity leave) would not be going to the June NATO meeting but would attend in September, and would probably seek an appointment with SECDEF at that time (ref A).

3. (C) On a number of issues, Minister Chacon made it clear she was pleased to discuss but not yet aware of Spanish equities. She offered no comment, for example, when the Ambassador raised NATO enlargement, urging that Spain support Membership Action Plans (MAP) for Ukraine and Georgia. She likewise asked the Ambassador about the status of LAIRCM but seemed satisfied the U.S. Embassy was doing all it could to help protect Spain's Head of State and Head of Government aircraft. While unfamiliar with U.S. procedures for notifying the intent to sell TLAM to Spain, she was pleased with the Ambassador's efforts to push for notification and interested in the outcome. On Gibraltar, MOD Chacon was pleased to learn the U.S.-Spanish Permanent Committee would hold an informational meeting June 17, and yet expressed the Spanish hope U.S. ships would call at Rota whenever possible.

4. (C) Regarding Afghanistan, MOD Chacon assured the Ambassador Spain was considering the possible deployment of Spanish police trainers. She noted the original request had been for Civil Guard trainers. The Ambassador explained that either Spanish National Police or Civil Guard expertise would be welcome, and left it up to Spain to determine the most appropriate contribution. Minister Chacon assured the Ambassador that Spain also remained committed to Kosovo. She went on to suggest that the Spanish military, absent GOS recognition of Kosovo's independence, had greater credibility with Serb forces and might therefore have a calming effect in the region. The Minister told the Ambassador that Spain's parliamentary cap of 3,000 on personnel deployed overseas was real, and said she could not imagine it being raised or eliminated.

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Reference ID	Created	Released	Classification	Origin
<u>08MADRID691</u>	2008-06-24 07:07	2010-12-03 12:12	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

VZCZCXRO1704
PP RUEHAG RUEHDF RUEHIK RUEHLZ RUEHROV
DE RUEHMD #0691/01 1760733
ZNR UUUUU ZZH
P 240733Z JUN 08
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 4975
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 3474
UNCLAS SECTION 01 OF 02 MADRID 000691

SENSITIVE
SIPDIS

DEPARTMENT FOR EUR/WE

E.O. 12958: N/A
TAGS: PGOV PREL SP
SUBJECT: SPAIN'S OPPOSITION PARTIDO POPULAR: RAJOY FIRMLY
IN CONTROL FOR NOW, BUT MUST SHOW RESULTS

REF: MADRID 537

MADRID 00000691 001.2 OF 002

¶1. (U) Mariano Rajoy, the embattled head of Spain's main opposition Partido Popular (PP), was re-elected as party leader on June 21 during the three-day PP congress held in Valencia. As reported in REFTEL, Rajoy's leadership had been challenged on several fronts since his party lost a second straight national election to President Zapatero's Spanish Socialist Workers Party (PSOE) and it was unclear if he would be able to hold on to power. Over the past few weeks, would-be challengers found insufficient support for their candidacy to unseat Rajoy and faded back into the woodwork, leaving Rajoy to run unopposed. He further distanced himself from the shadow of former President Jose Maria Aznar by announcing a younger, more moderate party secretariat on June 19 that won plaudits from even left-leaning national newspapers, and now appears to be basking in the glory of a successfully-completed party congress. However, many in Spain believe Rajoy has overcome only the first in a long series of leadership battles in advance of the next round of national elections in 2012, and he will need to show positive results in off-year regional and European elections if he hopes to have a third consecutive chance to grab the brass ring of the Spanish presidency.

¶2. (U) Approximately 3,025 PP delegates gathered from 20-22 June in the seaside city of Valencia, Spain, to approve the party's political platform for the next four years, under the motto "We Grow Together." Over 84% of these delegates voted for Rajoy to continue as party leader. This vote tally was

the lowest of any PP leader since the party was reformed in 1989, but should serve to silence critics for now. Rajoy was coming off a tough 100-day period following the March 9 election loss and had to deal with tumult and dissension in his party's ranks and open criticism from staunch PP members such as Madrid Regional President Esperanza Aguirre, former Interior Minister Jaime Mayor Oreja, Congressional foreign policy spokesman Gustavo Aristegui, party communications secretary Gabriel Elorriaga, and PP campaign strategist Juan Costa. In addition, the popular leader of the PP's political allies in the Basque Country, Maria San Gil, stated publicly in May that she had lost confidence in the leadership of Rajoy and his team. Nevertheless, opposition to Rajoy proved to be a mile wide and an inch deep and faded away once it became clear that no single alternative candidate had enough support to overthrow the sitting leader.

//COMMENT//

¶3. (SBU) Rajoy appears to have put to rest for the time being any doubts about his PP leadership, and his new team is receiving generally positive reviews from across the political spectrum. Pundits are highlighting not only the collective experience and competence of the group gained from positions at the local, regional, and national levels, but also their backgrounds (including a single working mother) designed to present a more moderate face and hopefully appeal to a wider swath of Spanish voters. We believe Rajoy is definitely strengthened coming out of the party conference and has a mandate to reform the party in his own image--but his new team will be expected to achieve results quickly if he hopes to lead the party's national ticket in 2012. As we have reportedly previously, we believe Rajoy owes his longevity as much as anything to the lack of a credible successor within his own party, but many are waiting in the wings should he stumble again. Key off-year elections are coming up in the Basque Country (scheduled for early 2009), Galicia (June 2009), and the European Parliament (June 2009), and PP supporters will demand to see positive results as reward for having remained patient while Rajoy finds his way.

XXXXXXXXXXXXXX

AGUIRRE

ID:	163969
Date:	2008-07-29 13:05:00
Origin:	08MADRID843
Source:	Embassy Madrid
Classification:	UNCLASSIFIED
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UNCLAS SECTION 01 OF 03 MADRID 000843

SIPDIS

STATE FOR EEB/TPP/IPE JOELLEN URBAN
STATE PASS USTR CHRIS WILSON
STATE PASS COMMERCE DON CALVERT

E.O. 12958: DECL: N/A
TAGS: ECON, ECPS, KIPR, SP, UK
SUBJECT: SPAIN: INTERNET SURVEY PROJECT

REF: LONDON 1814

SENSITIVE BUT UNCLASSIFIED

1. (SBU) Summary: After consulting with rights-holders, the Embassy has identified seven main websites as most likely to be used for the purpose of uploading and/or downloading copyrighted materials considering accessibility, ease of download, and anonymity. Based on what we have found, it is fairly easy for Spaniards to obtain access to pirated media over the internet. Internet user anonymity remains a large legal obstacle in the enforcement of Spanish piracy regulations. Negotiations between Internet Service Providers (ISPs) and content providers have aimed to address this issue in recent months as part of a larger effort to stem internet piracy. Spain also continues to look towards the examples of neighboring countries in making decisions on internet piracy policy. Our overall assessment is that there is extensive illicit copyrighted material available for Spanish consumers, although we make no judgment regarding whether there is more or less such material available for consumers in other countries. End Summary.

Embassy Internet Project

2. (SBU) Spain has a major internet piracy problem. The country was placed on the Special 301 QWatch ListQ in 2008, largely because of this issue. The purpose of this project is to evaluate the nature of pirated content marketed to and available to the Spanish consumer, and to attempt to determine the facility

which with Spanish nationals can acquire pirated materials over the internet. Online music and movies are the primary focus of this project. Due to the growing number of Spanish households with broadband internet access, in addition to the availability of efficient playback software, music and movies have become the primary concern with respect to online pirated materials. This project was carried out with the aid of several organizations from the movie industry, music industry, and intellectual property rights groups in Spain. Among those who provided information on questionable web pages were the Motion Picture Association (MPA), the Federation for the Protection of Intellectual Property (FAP), General Society of Authors and Editors (SGAE), and Producers of Spanish Music (Promusicae).

3. (SBU) With the information provided by these Organizations, the

Embassy identified seven main websites as most likely to attract Spanish consumers considering accessibility, ease of download, and anonymity. Three of the webpages have been identified for downloading movies, three for downloading music, and one page, www.vagos.es, has been noted by all of the above mentioned content provider organizations for its movie and music download popularity. (Note: The Embassy surveyed these websites but did not actually upload or download any material.)

4. (SBU) The websites appear mostly to be operated out of locations

in Spain. Technically, it does not matter where they are located. However, rights-holders have told us that, in theory, it should be less burdensome from a legal standpoint to block consumer access to sites operated from outside Spain.)

Movies

5. (SBU) www.elrincondejesus.com is a traditional webpage based in the northwestern Spanish region of Galicia. This page offers download links from various P2P systems including eMule and BitTorrent. One must, however download execute applications that access the P2P networks specified in order to download content. In order to access download information, users must register with the web page and login. Registration information includes: nickname, email address, password, occupation, country, postal code, sex, year of birth, and sector of employment.

6. (SBU) www.fase6.com is a traditional webpage with links to streaming video online. Movies do not have to be downloaded and can be viewed almost instantly, depending on the internet connection

available. This page uploads movies daily, popular new and old releases and targets Spanish audiences. This site is very easy to access. There is no need to sign in, log on, or provide any information in order to access 100 percent of the content. Users just have to click on the link and the video starts to play.

7. (SBU) www.sharemula.com is a page based in the southern Spanish region of Andaluca that offers links to a variety of media on the eMule P2P network. Types of media include software, music, movies, and eBooks in PDF format. Upon registration, users have access to links available for download through the eMule application. This page uses P2P networks to facilitate movie downloading. The content on this site is more difficult to access because one must both sign into the webpage with a login and password and additionally download and execute the eMule application in order to acquire pirated content.

Music:

8. (SBU) www.elitemp3.net is a traditional webpage. Upon login, users have access to a variety of full music albums. The site's selection includes American and Spanish albums, but its language and themes suggest the site is geared towards a Spanish audience. The availability of songs and albums for download can be viewed by any internet user but download links and physical downloads are only available to registered users. Registration information includes: username, password, email address, country, postal code, age occupation, and sector of employment. Users are also given the option to join various email lists. According to Promusicae, this site contains 3537 albums, has 263,342 users, and 6,600,000 downloads. In 2008, Promusicae reported that charges have been pressed against this site.

10. (SBU) www.ddr.mforos.com is an online message board. This site also offers access to movies, series, etc. in addition to music. The site was however originally noted for music piracy. The music section of the site contains threads for various albums, both Spanish and English. Upon entrance into the thread, a listing of songs on the album and a link to a Qone-click hosting site (pages that store large-size files for their users, i.e. Rapidshare.com, Megaupload.com) appears. According to Promusicae, this site contains 3000 albums, has 70,964 users, and has been visited over 21,000,000 times.

11. (SBU) www.posteando.com is an online message board with various themes including video games, software, literature, and multimedia. The multimedia section of the site contains both movies and music for download. The music section is organized in a manner where each thread specifies a download link for a certain album or song. The music section of the page also contains a thread where users can request download links from other users. Any internet user can view the locations of the content in question. It is necessary, however, to have a profile to post on the forum and thus be able to both post links and ask for links. According to Promusicae, this site contains 5000 albums and currently has 65,729 users.

Special Note

12. (SBU) www.vagos.es has been noted by both music and movie industry representatives as well as intellectual property rights organizations in Spain. For this reason, it receives

special attention as a notorious provider of pirated materials of several kinds to its users. This site is an online message board based in the Balearic Islands. Music and movies are just two sections of the site. Other sections include general discussions about sports, humor, cars, and technology, and do not always contain pirated material. The music and movies sections include links uploaded by users of the site. Links are mostly to one-click hosting pages such as Megaupload and Rapidshare. Visitors who have not signed up with the web site are only able to view one post from one message board, therefore only having access to download one piece of media. In order to see more than one message, users must register with the web site and login. Information needed to register includes: name, password, email, country, postal code, sex, occupation, and industry.

Analysis:

13. (SBU) After a general review of each of these internet pages, it

is clear that it is not difficult for Spaniards to obtain access to pirated movies and music over the internet. In addition, users can usually do so anonymously. Most of the pages visited required the provision of a user name and email address, from neither of which could a true identity be verified. However, rights-holders have told us that this should not be an insurmountable obstacle to restricting service to

MADRID 00000843 003 OF 003

internet service subscribers suspected of trafficking in copyrighted material, i.e. rights-holders can provide suspected IP address detectors without knowing the name of the person behind the address. In theory, this should provide a way for ISPs to limit or eliminate service to internet service subscribers without breaking Spanish privacy laws, although they do not appear to be convinced. Additionally, the fact that pirated materials sometimes appear on sites that are mainly geared towards discussions on lifestyle and leisure (www.posteando.com) poses an additional risk to rights-holders in that some internet users otherwise unlikely to seek pirated materials may opportunistically download pirated products through these sites. The lifestyle sites are geared mainly towards teens and adults in their 20s. Popular music and movie titles found on these sites are rarely more than twenty years old. This fact, especially in regard to music, points to the fact that the majority of both uploaders and downloaders fall into the age groups specified. The organizational structure of media downloading in Spain seems to be dominated by independent sites that allow users to post links, or more simply instructions, on how to download the content from a third party. The third party download sources generally fall into one of two categories: one-click hosting sites or peer-to-peer (P2P) applications. The most common P2P applications among the sites reviewed are eMule, which runs on the eDonkey network, and BitTorrent, a P2P system that allows users to share the costs (hardware, memory, download time) of uploading and downloading content. The most common one-click hosting sites were Rapidshare and Megaupload. These sites offer users to

upload large size files onto their network space and make the files available for download to other users. While these sites are meant for personal use and legal sharing of non-copyrighted material, they are being used by a growing number of people to distribute pirated content.

Comment:

14. (SBU) After a number of years of increasing complaints from rights-holders about internet piracy, the Embassy thought it would be valuable to try to see what is available to Spanish consumers. From our survey of the internet, it is clear that rights-holders have a point. Access to pirated material over the internet does appear to be quite extensive. We make no judgment as to whether more or less illicit content is available in Spain than in other major economies, only that such content is indeed available here. Moreover, a generation of Spanish internet users has become used to using the internet to access movies and music, some of which is legally available over the internet, but much of which is not available legally through the internet. Rights-holders sometimes describe the Spanish government and ISP pressure on content providers to offer legal internet alternatives as a Qred herring.Q In part, they may be right. We suspect, however, that any deal between ISPs and rights-holders or any new legislation aimed at protecting copyright over the internet will have to include an element of more legal alternatives, much as was described in reftel in the case of the United Kingdom.

AGUIRRE

ID:	169777
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C O N F I D E N T I A L MADRID 000987

SIPDIS

FOR EUR/WE

E.O. 12958: DECL: 09/12/2018
TAGS: PREL, ETRD, GG, KV, SP
SUBJECT: DEPUTY CHIEF OF MISSION'S SEPTEMBER 12,2009,
MEETING WITH NEW DG FOR EUROPE AND NORTH AMERICA

REF: STATE 97574

Classified By: Deputy Chief of Mission Arnold A. Chacon, Reasons
1.4b,
d.

1. (C) Summary: Deputy Chief of Mission Chacon called
September 12, 2009, on new MFA Director General for Europe
(non-UE) and North America Luis Felipe Fernandez de La Pena.
They discussed the bilateral relationship, Georgia, Kosovo,
and intellectual property rights. End summary.

2. XXXXXXXXXXXXX

3. XXXXXXXXXXXXX

4. XXXXXXXXXXXXX.

5. (C) The DCM raised IPR and Spain's appearance of the
Special 301 watchlist, urging that the GOS take strong action
against internet piracy. Fernandez de la Pena seemed
unfamiliar with the issue but promised to give it his
attention.

Aguirre

Reference ID	Created	Released	Classification	Origin
<u>08MADRID1280</u>	2008-12-04 13:01	2010-12-02 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO8488
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DE RUEHMD #1280/01 3391342
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R 041342Z DEC 08
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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 3694
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RHEHNSC/NSC WASHDC
RUEKJCS/SECDEF WASHDC
C O N F I D E N T I A L SECTION 01 OF 03 MADRID 001280

SIPDIS

FOR EUR/WE

E.O. 12958: DECL: 12/03/2018
TAGS: MARR PREF PGOV PTER KPAO SP
SUBJECT: SPAIN: ALLEGED DETAINEE FLIGHTS ISSUE BLOWS UP IN
MEDIA

REF: A. 07 MADRID 173
1B. MADRID 1021

MADRID 00001280 001.2 OF 003

Classified By: Deputy Chief of Mission Arnold A. Chacon for reasons
1.4
(b) and (d).

11. (SBU) SUMMARY: A hot issue in the Spanish press since 2005, the detainee transfer flights that allegedly transited Spain from 2002 until 2006 have once again hit the headlines. The most recent flurry of reporting began November 30 when El Pais, Spain's leading newspaper, printed several stories based on internal GOS documents purporting to relate U.S. requests in 2002 for permission to use Spanish airports should an emergency arise on flights transporting terrorism detainees to Guantanamo. Although GOS officials past and present continue to deny knowledge of any illegality, this long-running saga could have implications for our Agreement on Defense Cooperation (ADC). END SUMMARY.

The Story that Will Not Die

12. (SBU) The Guantanamo detainee flight story has long since become a press staple in Spain. The story appears on front pages (starting in El Pais) and disappears every two or three months. An investigation is underway in a Spanish court, brought by an NGO which claims illegally detained persons

were transported via Spain. The press reporting almost invariably mixes so-called "CIA flights" and U.S. military flights via Rota and Moron (of which there are thousands annually) indiscriminantly. It also draws heavily on claims by various NGOs interested in Guantanamo and presents their allegations as fact (e.g., lists of aircraft tail numbers from planes alleged to have passed through Spain carrying detainees). The progress of the case appears desultory and that translates into a periodic rash of stories each time the judge receives new information, say from air traffic control authorities or the Spanish MOD. Naturally, no allowance is made in the press for the fact that Guantanamo, aside from being home to the detention facility, is also a U.S. military base visited by routine logistical flights.

Leaks

¶3. (SBU) The current iteration of the story is the most virulent so far. It began November 30 when El Pais reported a document recounting a 2002 meeting between the then-Spanish MFA Director General for North America and the Embassy's Political-Military Counselor (NFI) in which the U.S. asked to use Spain as an emergency landing destination for flights moving detainees from Afghanistan to Guantanamo. The newspaper also described a second document from the same MFA official, addressed to the MOD Secretary General for Defense Policy, expressing the MFA's willingness to grant the U.S. request and suggesting use of a "discreet" military airport such as Moron. In a related article December 3, El Pais published a February 2007 letter from the Spanish President of the joint Permanent Committee which manages implementation of the ADC, asking the U.S. section to confirm that the U.S. was in compliance with Article 25.2 of the ADC with respect to U.S. military flights to and from Guantanamo (that article exempts from blanket flight clearances any plane carrying persons or cargo that would be controversial for Spain). The newspaper also published the U.S. section response, which was in the affirmative. (Note: In March 2007, the MOD decided that all flights to and from Guantanamo would require individual clearances; that is the procedure in use today).

Know Nothings

¶4. (SBU) Trying to get ahead of the story, FM Moratinos announced December 1 the formation of an independent investigative team including the Chiefs of Staff to the FM, the Secretary of State for Foreign Affairs, and the Undersecretary of State for Foreign Affairs as well as the FM's parliamentary advisor. On December 2, Moratinos confirmed press reports the investigative team has not been able to locate the original of the 2002 document described in paragraph 1 (although El Pais has printed a facsimile). This has only added to the government's embarrassment.

¶5. (C) President Zapatero and his cabinet have let it be

known that they had no knowledge of any arrangements the previous administration (that of Jose Maria Aznar) might have made with the U.S. This tactic could be effective but is blunted by allegations the flights continued into 2006, well into Zapatero's first term. Given the Socialists' consistent, outspoken anti-Guantanamo line, it would be a political disaster if they were shown to have winked at detainee flights. It would be only somewhat less damaging if they were perceived to be so incompetent they did not notice the flights. Moratinos has denied any knowledge. Two former Zapatero MODs, current President of Congress Jose Bono and current senior Socialist Party congressional spokesman Jose Antonio Alonso, have said they knew of no illegal U.S. activity in Spain. The opposition Popular Party (PP -- the party Aznar led) has accused the Zapatero administration of leaking documents in an effort to discredit them and to distract public attention from Zapatero's alleged mishandling of the ailing Spanish economy. The PP has also pointed out that of two of the alleged flights occurred under Aznar and nine came under Zapatero's presidency. PP leader Mariano Rajoy has told the press he knew nothing about the flights, although he was First Vice President in Aznar's government at the time of the alleged agreement. A unsubstantiated rumor claims the leaker is the head of Spain's National Intelligence Center who is allegedly trying to pressure his former mentor Bono into supporting a renewal of his term as director. We put little credence in such rumors, but they give a sense of how heated this has become. Adding to Zapatero's discomfort, the small but noisy far-left party (United Left) is in full cry over the story.

Subpoenas?

¶16. (SBU) The prosecutor handling the related court case indicated last year that there was no plan to request information from the USG (ref a). However, the latest round of stories has included speculation that the court might seek testimony from Aznar and members of his administration as well as from U.S. Embassy officials. We have received no official notification of any such requests, and consider it unlikely.

Comment

¶17. (C) Beyond the fact that it sells newspapers, there are a variety of reasons for this story's longevity. Although anti-Americanism in Spain is more theoretical than practical (the Spanish people fundamentally like the U.S. and want strong relations, and the Spanish government is anxious to establish closer ties with the incoming U.S. Administration), there remains an important segment in the media that is old-school European left. More importantly, the left-of-center press here enjoys bashing Aznar and his party, especially for their support for the war in Iraq. Additionally, although itself left-of-center, El Pais has its differences with Zapatero and may not mind inflicting pain on him as well as Aznar. Neither is El Pais very fond of Moratinos.

¶18. (C) Whatever the motive, the continual media muddling of so-called "CIA flights" and U.S. military flights is unhelpful. The ADC provides us the extremely valuable use of two military bases in southern Spain midway between the continental U.S. and the theaters of operation in Afghanistan and Iraq. To the extent our ADC -- which generally receives little public attention in Spain -- is hauled onto the front pages in connection with the detention facility at Guantanamo, we run the risk of seeing political support for the ADC and our mil-mil relationship undermined. By unfortunate coincidence, the ADC was already in the press in recent weeks thanks to MOD Chacon,s repeated references to her hope that the U.S. would elevate it to the level of a treaty (septel).

¶19. (C) In general, we have taken the approach that the less said by us to the press on the overflight topic, the better. The MFA North America Desk has told us in the past that they strongly prefer the Embassy not say anything, fearing it might stir the pot. In any case, our ability to beat down this story is constrained by the fact that we do not ourselves know, factually, what might have transpired five or six years ago as the battles in Afghanistan and Iraq began

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yielding large numbers of potentially dangerous terrorist detainees and unlawful combatants. Naturally, we are not going to answer questions on the activities of intelligence agencies, so in any conversation about these issues we run the risk of appearing less than transparent and thus seeming to confirm the media,s worst insinuations. When we do speak publicly on the issue, our mantra is that we have not violated Spanish law and have complied fully with the ADC. Needless to say, we decline to comment on any leaked internal GOS documents. We also try at every opportunity to make the larger point about the war on terror and the very difficult choices that are faced when the U.S. captures suspected terrorists on foreign battlefields. Frankly, this is a losing argument with a Spanish public that -- although attuned to the dangers of terrorism -- largely rejects the muscular U.S. approach to fighting it overseas.

¶10. (C) Thus far, the MOD and MFA have done a reasonably good job in their public affairs efforts of making clear that they do not believe we have violated the ADC. The MOD issued a December 2 statement saying it knew of no U.S. military flights that were either illegal or in violation of our bilateral agreements (this echoes what MOD officials have told us privately -- e.g. ref b). However, we have no illusions. Politicians are not going to throw themselves on a grenade to protect a predecessor government they despise. More than anything, these stories are directed at Aznar and his party, and the damage to U.S. interests is in some measure collateral.

¶11. (C) Our guess is that the story will continue to rear its head every month or two for the foreseeable future. It is irresistible copy for Spanish editors, and Aznar is the left,s favorite bogeyman. The court case, winding its way

slowly through the system, also provides periodic opportunities to revive it. Also, the release in the U.S. at some point in the future of information relating Guantanamo and Spain would certainly generate renewed press interest here. Barring a categorical statement from the USG that no detainees passed through Spain -- and we understand that might be undesirable from a policy standpoint even if factually correct -- nothing but time is going to make this go away.

AGUIRRE

ID:	184798
Date:	2008-12-24 12:20:00
Origin:	<u>08MADRID1359</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	08MADRID1226 08MADRID1257
Destination:	R 241220Z DEC 08 FM AMEMBASSY MADRID TO SECSTATE WASHDC 5823 INFO EU MEMBER STATES COLLECTIVE AMEMBASSY MOSCOW AMCONSUL BARCELONA NSC WASHDC CIA WASHDC DEPT OF COMMERCE WASHDC DEPT OF ENERGY WASHINGTON DC

C O N F I D E N T I A L MADRID 001359
STATE FOR EUR/WE

E.O. 12958: DECL: 12/23/2018
TAGS: EINV, EPET, KBIO, RU, SP
SUBJECT: LUKOIL-REPSOL ROLE HIGHLIGHTS IMPORTANCE OF
PRESIDENCY SYG BERNARDINO LEON

REF: A. MADRID 1257
B. MADRID 1226

Classified By: DCM Arnold A. Chacon, for Reasons 1.4 (b) and (d)

1. (C) Presidency Secretary-General Bernardino Leon confirmed in a December 22 dinner with the Ambassador that President Zapatero has tasked him with ensuring that Russian (and partly U.S.-owned) oil company Lukoil's pending purchase of a sizable stake in Spain's Repsol takes place on politically acceptable terms. Leon is seeking to limit Lukoil to purchasing the 20 percent stake of Repsol owned by troubled construction company Sacyr Vallehermoso, rather than the almost 30 percent it had originally sought (reftels), so that Lukoil will not become Repsol's most influential shareholder. Zapatero wants to see the sale of Sacyr's stake go through in order to help Sacyr, which has more than 20,000 employees, overcome its current difficulties. King Juan Carlos also has been a proponent of the deal, which is seen as a way of strengthening Spain's relations with Russia. Leon is seeking either to persuade Repsol's other Spanish shareholders to hold their shares or to find Spanish buyers for them. At present, the main hurdle to the Sacyr-Lukoil deal appears to be price, especially with the continuing fall in the price of oil. The Spanish banks who are Sacyr's creditors would finance Lukoil's purchase, as they are reported to prefer to be creditors of Lukoil than of Sacyr if acceptable collateral arrangements can be reached.

2. (C) Comment: His involvement in the sensitive Lukoil deal plays up Leon's increasing importance as one of Zapatero's closest advisers, especially on international issues (along with Defense Minister Chacon). The forty-four year-old former deputy foreign minister plays a more policy-oriented role than the coordinating function that usually falls to the presidency secretary-general. He also accompanies Zapatero on all his foreign travel. Leon was supposed to accompany Zapatero to Afghanistan December 23, but the trip was cancelled because of regional

government financing discussions, in which he is the government's point man. Leon told the Ambassador he expects to join Zapatero on a trip to Lebanon early in the New Year.

3. (C) Comment Continued: Leon does not seek a prominent public role, and he told the Ambassador that a December 22 article in the El Mundo newspaper playing up his super-charged National Security Advisor role did not go over well with with Foreign Minister Moratinos and Second Vice President and Finance/Treasury Minister Solbes. The article described Leon as the brain behind the effort to increase Spain's international influence, particularly with the U.S., and it included several statements that could be read as slights to Moratinos, such as "some say he (Leon) is the real foreign minister and has more influence than the Vice President."

4. (C) Comment Continued: Leon clearly will be one of the key voices shaping Zapatero's views on the next U.S. administration, and he appears to have a better understanding of the U.S. than either Zapatero or other advisers. Leon visited the U.S. in April to meet with advisers to then-candidates Obama, Clinton, and McCain. He is reported to have organized Zapatero's September New York meeting with U.S. business leaders (working through the AmCham), and he directed the ultimately successful campaign to get Spain invited to the November G-20 financial crisis summit. He said he looked forward to meeting with WHA A/S Shannon during the latter's visit in early January. We will seek to maintain our strong relationship with him over the coming months.
End Comment.

AGUIRRE

Reference ID	Created	Released	Classification	Origin
<u>06MADRID5480</u>	1986-05-12 17:05	2010-11-28 18:06	SECRET	Embassy Madrid

O 121758Z MAY 86
FM AMEMBASSY MADRID
TO SECSTATE WASHDC IMMEDIATE 8202
EC COLLECTIVE IMMEDIATE
INFO AMEMBASSY ALGIERS
AMEMBASSY RABAT
AMEMBASSY TUNIS
S E C R E T MADRID 05480

E.O. 12356: DECL: OADR
TAGS: PTER PINR PREL SP LY
SUBJECT: QADHAFI RETALIATES AGAINST SPANISH EXPULSIONS

REF: A) MADRID 5426, B) MADRID 5425, C) MADRID 5418

¶1. (C) LIBYA MAY 12 RESPONDED TO FRIDAY'S EXPULSION OF ITS CONSUL GENERAL, CHARGED WITH PASSING FUNDS TO A SPANISH ARMY COLONEL ON THE ANTI-DEMOCRATIC RIGHT, BY PNG'ING THE SPANISH COMMERCIAL AND CULTURAL COUNSELORS IN TRIPOLI. MFA'S SUBDIRECTOR GENERAL FOR NORTH AFRICA TELLS US THAT THE GOS WILL NOT RETALIATE SPECIFICALLY FOR THESE EXPULSIONS; AS INVESTIGATIONS CONTINUE INTO THE LIBYAN ACTIVITIES HERE, HOWEVER, MORE EXPULSIONS ARE QUITE POSSIBLE.

¶2. (U) AFTER THIS MESSAGE WAS DRAFTED, WE RECEIVED A WIRE SERVICE REPORT QUOTING INTERIOR MINISTER BARRIONUEVO SAYING THAT SPAIN DID NOT PLAN ADDITIONAL LIBYAN EXPULSIONS.

¶3. (C) COMMENT: IT IS NOT CLEAR WHERE THIS SERIES OF EXPULSIONS AND REPRISALS IS GOING TO TAKE SPANISH- LIBYAN RELATIONS. THE GOS IS DRIVEN BY TWO MUTUALLY- EXCLUSIVE DESIRES. ON THE ONE HAND, IN THIS ELECTORAL PERIOD IT WANTS TO DISCREDIT THE FAR RIGHT (WHICH IT HAS DONE BY PUBLICIZING THE COLONEL'S CONNECTION TO QADHAFI - REF C), AND SHOW IT IS EFFECTIVE AGAINST TERRORISM (WHICH IT DID BY BAGGING THE 10-MAN "CALL OF JESUS CHRIST" GROUP - REF A). AT THE SAME TIME THE GOS WANTS TO AVOID BECOMING A PRINCIPAL TARGET FOR QADHAFI BY PERSERVING AS MUCH OF A RELATIONSHIP AS POSSIBLE. FOREIGN MINISTER ORDONEZ PLAYED TO THE SECOND LINE THIS WEEKEND WHEN HE REFUSED TO COMMENT ON LIBYAN ACTIVITIES HERE, SAYING "I DON'T WANT TO MAKE ANY STATEMENT WHICH MIGHT AGGRAVATE A STATE OF RELATIONS WHICH IS PASSING THROUGH A DELICATE MOMENT." WE UNDERSTAND FROM OUR MFA SOURCE THAT SENIOR MINISTRY OFFICIALS MET TODAY TO DECIDE HOW TO REACT TO LIBYA'S RETALIATION (WHICH LEAVES THE GOS EMBASSY IN TRIPOLI WITH ONLY 3 DIPLOMATS). THE DECISION TO DO NOTHING IS CONSISTENT WITH THE MINISTRY'S LINE -- TAKEN PUBLICLY THIS WEEKEND -- THAT IT DOES NOT WANT TO SEVER RELATIONS WITH TRIPOLI. THIS STRATEGY IS ONLY POSSIBLE IF QADHAFI PLAYS ALONG.

ENDERS

ID:	188131
Date:	2009-01-21 17:13:00
Origin:	<u>09MADRID71</u>
Source:	Embassy Madrid
Classification:	SECRET
Dunno:	08MADRID1359 08MADRID518
Destination:	VZCZCXRO1700 RR RUEHLA DE RUEHMD #0071/01 0211713 ZNY SSSSS ZZH R 211713Z JAN 09 FM AMEMBASSY MADRID TO RUCPDO/DEPT OF COMMERCE WASHDC RHEHAAA/WHITE HOUSE WASHDC RUEHC/SECSTATE WASHDC 0092 RUEKJCS/SECDEF WASHDC RHEHNSC/NSC WASHDC RUEILB/NCTC WASHINGTON DC RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC RUCNFB/FBI WASHDC RUEAIIA/CIA WASHDC INFO RUEHLA/AMCONSUL BARCELONA 3749 RUEHBS/USEU BRUSSELS RUCNDT/USMISSION USUN NEW YORK 0472 RUEHUNV/USMISSION UNVIE VIENNA 0105

S E C R E T SECTION 01 OF 06 MADRID 000071

SIPDIS

PASS TO ELAINE SAMSON AND STACIE ZERDECKI AT EUR/WE,
JANICE BELL AT INR
TOBY BRADLEY AT NSC

E.O. 12958: DECL: 01/20/2034
TAGS: OVIP, PINS, PREL, PTER, OFDP, SP, PGOV
SUBJECT: SPAIN: DEPARTING AMBASSADOR'S INSIGHTS ON ENGAGING
GOS LEADERSHIP

REF: A. 08 MADRID 1359
B. 08 MADRID 518

Classified By: Charge d'Affaires Arnold A. Chacon for reasons 1.4 (b)
a
nd (d)

1. (C) SUMMARY: Ambassador Aguirre conducted a series of farewell calls on key GOS officials in the weeks before departing Post on January 20. Those meetings contributed to the information in this cable, which offers the Ambassador's final thoughts on how the Obama Administration might best engage key personalities within the Zapatero Administration. END SUMMARY.

2. (C) xxxxxxxxxxxx.

//King Juan Carlos de Borbon//

3. (S) The Ambassador urges the new Administration to engage

with King Juan Carlos I, the Spanish Head of State. Juan Carlos is well-disposed to the U.S. but he will always act in what he perceives to be the best interests of Spain. Where U.S. and Spanish interests coincide, he can be a formidable ally. In meetings, the King will try to charm interlocutors and will bring down the level of formality and protocol to make them feel comfortable, thereby seek to guide the relationship. It is best to stay at the King's level of banter and not be cowed by his aura. If you push back with joviality at any verbal jousting, you will win his respect.

4. (S) The King has a respectful relationship with Zapatero and they communicate well. Zapatero consults and informs the King on issues from time to time and the King has no reluctance to offer his thoughts - but not his advice - on issues. The King is selective when he wants the GOS to do something, discreetly passing the word through Zapatero or his Cabinet. The King does have influence with Zapatero when he wants to use it.

5. (S) For example, the Ambassador is convinced that the King was the guiding force - over the objections of Foreign Minister Moratinos - in the GOS naming Jorge Dezcallar to be the current Ambassador to the United States. The Ambassador believes this in part because the King identified Dezcallar to the Ambassador as the next Spanish envoy to Washington six months before the decision was announced by the GOS. The Ambassador believes that Juan Carlos chose Dezcallar because he believes Dezcallar will do the best job for Spain in that

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position. Of course, it also helps that Juan Carlos likes Dezcallar and that Dezcallar has some personal allegiance to the King.

6. (U) Juan Carlos will visit Florida (Pensacola during February 18-19 and Miami on February 19) as part of celebrations to mark the 450th anniversary of the first Spanish expedition to set foot in what is today the United States. According to Spanish press reports, Spanish diplomatic sources suggest he may meet Obama Administration officials during his visit.

//President Jose Luis Rodriguez Zapatero//

7. (S) Zapatero is a wily politician with an uncanny ability - like a cat in a jungle - to sense opportunity or danger. It is dangerous to underestimate him, as many former rivals have found out too late. In making decisions and formulating policy, he plays to his domestic audience, especially voters outside the Madrid region, which he looks down upon for a kind of "inside the Beltway" insularity that he perceives as detached from the concerns and views of most Spaniards. He is playing to the peanut gallery rather than to the front row. Zapatero, who is heading his second minority government, is constantly fighting for the support of the 1-2 million swing voters and traditional non-voters. In the Ambassador's judgment, there are no issues that Zapatero would fall on his sword over; all options are always on the

table in order to achieve his immediate political goals.

8. (C) Zapatero has faced a steep learning curve on foreign policy issues, but has developed a broad strategic vision that recognizes the inter-relationships and cause and effect consequences of his government's actions. Nowadays he is well informed on any topic. Zapatero has the capacity to learn, absorb, and connect the dots. He is bright and continually gets the better of detractors who underestimate him.

9. (S) Zapatero is not a "conviction" politician but undoubtedly understands the Spanish people and will support whatever policy appeals to them, regardless of U.S. interests. However, Zapatero also has shown that if there is an issue of particular importance to the USG, he can be amenable to working with us despite internal opposition. For example, at one point the Ambassador informed Zapatero that U.S. CEO's might decide to stop bidding in Spain due to a growing perception that the GOS was not welcoming US bidders on procurement contracts. Zapatero had told the Ambassador to let him know if there was something important to the USG and he would take care of it. Later - when the USG had agreed to advocate on behalf of GE in a bid against Rolls Royce for a Spanish MOD contract to provide helicopter motors - GE informed the Ambassador that failure to win the contract would cause that branch of GE to cease operations in Spain, which the Ambassador duly informed Zapatero's economic adviser. Although there was considerable all-source evidence to suggest that the MOD decided to award the contract to Rolls Royce, Moncloa - the office of the President - overturned the decision and it was announced that GE had won the bid. The Ambassador is convinced that Zapatero personally intervened in the case in favor of GE.

10. (C) Zapatero is not innately ill-disposed to the USG. For him, foreign policy is subordinate to domestic political interests and the U.S. relationship is just one more element to be viewed according to the circumstances of the moment. There is currently a wave of goodwill for President Obama in Spain, which is the answer to Zapatero's prayers in that it enables him to engage the USG without being dinged by the traditional anti-U.S. sentiment among his political base.

11. (S) The best way to interact with Zapatero in meetings is to be pleasant and relaxed and be ready for some initial banter. The Ambassador advises to ask him open-ended questions and allow him to talk about what's on his mind.

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Zapatero will be well prepared on substance. Zapatero welcomes dialogue and an exchange of ideas. He does not respond well to being lectured and will end the conversation if he perceives that is what is occurring. Similarly, do not corner him politically or ambush him publicly. Give him room and he will listen to your ideas. If there are political differences, they would be best discussed behind closed doors. It is best to have open lines of communications with Zapatero's team, which has access to him at all times. The

USG needs to maintain and further cultivate access to the people who have access to Zapatero, the most well-connected of which are listed below.

//GOS Officials with Access to Zapatero//

I) Maria Teresa Fernandez de la Vega, the First Vice President and Minister of the Presidency

12. (S) Fernandez de la Vega is a key player with access to Zapatero. She is his able lieutenant and the executor of his policies. Fernandez de la Vega has an icy personality and brings a sterile, surgical approach to her work. There are rumors that Fernandez de la Vega may be removed during an impending Cabinet shuffle by Zapatero. The Ambassador believes that Zapatero has no personal allegiance to her beyond being a strong member of his team. She delivers and is effective at what she does, but the moment she ceases to be useful to him, he will let her go at the first politically convenient moment. The Ambassador does not believe she aspires to higher office and suggests she knows this post will be the peak of her career. She is not especially a friend of the USG, but is a pragmatist and interacts with the USG as needed. U.S. interlocutors would be well advised to use a firm backbone when dealing with Fernandez de la Vega, which the Ambassador suggests will help develop mutual respect.

II) Bernardino Leon, Secretary General of the Office of the President

13. (S) Leon is a smart and impressive interlocutor who is well-connected to and has the ear of Zapatero (As highlighted in REFTEL A). He is the golden boy of the GOS and his influence is on the rise. The Ambassador opines that Leon's career will take him far beyond where he is now and envisions that he could easily become Foreign Minister one day. At present, Leon is more important to Zapatero than Foreign Minister Moratinos or any other single cabinet minister because the breadth of his duties transcends any individual ministry and has virtually no parameters. Although his expertise is in foreign policy, Leon is currently Zapatero's go-to guy on both international and domestic issues (for example, he is even involved in budget negotiations between Spain's central government and the regional governments). Leon commands an impressive capability to digest incredible quantities of information on a range of topics, connect the dots and present them in a insightful, cogent and persuasive fashion. The Ambassador likened Leon's talent to a human version of Google. Leon also has an aptitude for creative problem-solving, such as his efforts in 2005 - as Deputy Foreign Minister - to ensure that a scheduled speech by Venezuela's Hugo Chavez in Salamanca, Spain did not upstage a cross-town meeting of the Summit of the Americas. Leon has been displeased with recent press reports touting his growing influence with Zapatero at the expense of Fernandez de la Vega or Moratinos. The Ambassador suggests Leon's ego is fed by what he accomplishes rather than by what people tell him or write about him. Leon has a passion for his work and interlocutors will find him very well informed on Latin America, Africa, the Middle East, and Russia.

14. (C) The Ambassador cites Zapatero's recruitment of Leon to the Office of the Presidency as the result of a rare instance in which foreign policy unfavorably impacted Zapatero domestically. Zapatero decided to shuffle his foreign policy advisers when the blowback from unflattering

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media coverage of Zapatero at the NATO Summit in Bucharest impacted his standing at home. (See REFTEL B).

III) Milagros Hernando, President of the International Department of the Office of the President

15. (C) Known as Mila, career diplomat Hernando acts as chief of staff to Leon, to whom she owes her job. Her geographic expertise is Europe - Leon's weakest area - which makes them a Yin & Yang team that complement each other. Their relationship is based on mutual trust. There is no daylight between them on policy issues. Hernando's role is for Leon's aggrandizement; she will protect him and will not take credit behind his back. With Leon as busy as he is, Hernando is more accessible to USG interlocutors.

IV) Gen. Felix Sanz, High Representative for the Spanish Presidency of the EU on Defense Issues

16. (C) On defense issues, Sanz, the Chief of the Defense Staff (CHOD) during 2004-08, might prove an alternate channel to Zapatero. Sanz has very positive views of the United States, despite knowing that in 2008 the USG did not vote for him to be the next Chairman of the Military Committee at NATO. He is not bitter about the incident, but knows he owes the USG no favors for it.

//Zapatero's Inner Circle//

17. (S) Zapatero keeps his own counsel and rarely asks for his subordinates' input on key issues. As his confidence has grown while he has been in office, he is doing so less frequently and will do so only with a select inner circle of three additional advisers besides Leon. The Ambassador suggests that Zapatero's thinking is that he does not need the advice of others and/or they are not useful to his decision-making process, so he does not reach out for their views.

I) Jose "Pepe" Blanco, Vice Secretary General in Zapatero's Spanish Socialist Workers Party (PSOE)

18. (S) Zapatero consults Blanco, the #2 official in the PSOE, on political issues. The Ambassador describes Blanco as a very important element in the equation for maintaining strong bilateral relations. Contact with him must be maintained to continue providing messages to Zapatero. However, Blanco leaves a bad taste in the mouth of some past U.S. interlocutors, whom he strikes as particularly untrustworthy. Blanco has an unfailing idiosyncrasy of never looking interlocutors in the eye when he shakes hands.

Furthermore, he has a reputation for being especially ruthless on political issues, which he appears to relish.

19. (U) Blanco and Jesus Caldera, the PSOE's Secretary for Ideas and Projects, will travel to Washington, DC in mid-February to attend a conference on the "historical change" in the United States that the new President represents.

II) Alfredo Perez Rubalcaba, Minister of Interior

20. (S) Zapatero also consults Rubalcaba, who tops the Ambassador's list of the most impressive GOS officials. The Ambassador suggested that Rubalcaba sees himself as the smartest person in Cabinet but conveys no hubris. Rubalcaba is smart enough to know that he needs the USG on counter-terrorism (CT) issues and therefore he has been cooperative with U.S. interlocutors on that topic. Rubalcaba excels out putting out fires, but also fully understands the extent of the lack of inter-agency cooperation in his Ministry between the Spanish National Police and the Civil Guard. The Ambassador suggests Zapatero is consulting with Rubalcaba for ideas on who should succeed intelligence director Alberto Saiz, whose five-year mandate expires in April, but the Ambassador also places the odds at better than even that Zapatero renews Saiz's mandate since it is the path

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of least resistance.

21. (S) Rubalcaba is feeling the weight of power and is looking for an opportunity to leave his Ministry and possibly the GOS, suggests the Ambassador. Rubalcaba - whose wife reportedly wants him to step down - takes the deaths of Spaniards to heart, whether at the hands of ETA terrorists, traffic deaths on the highways or criminal violence. It is starting to wear on him, and he has suggested he is no longer at his peak performance. He told the Ambassador he intended to step down in early 2008 at the end of the first Zapatero government, but he miscalculated and informed Zapatero too late in the latter's planning process. Rubalcaba is extremely loyal to Zapatero, who understands that he needs Rubalcaba and will make it difficult for him to step down. The Ambassador recommends that Rubalcaba - who is very accessible to the Embassy despite his busy schedule - remains a contact that the USG cultivates, whether he remains in his current post or not. He will continue to be an important player in Spanish politics in either case.

III) Jose Antonio Alonso, PSOE Spokesman in the Congress of Deputies

22. (C) According to the Ambassador, Zapatero also consults Alonso, a judge and childhood friend whom Zapatero recruited to be his Minister of Interior (2004-6) and later his Minister of Defense (2006-08) in his first government, before asking him to assume his current post. The two are close and Alonso is keenly loyal to Zapatero.

//Three Other Key GOS Personalities in the Bilateral

Relationship//

23. (S) Foreign Minister Moratinos is not the most impressive member of cabinet, but he is an honest broker who should be taken seriously. He is well meaning albeit egotistical, according to the Ambassador. The Foreign Minister belongs to a second, outer ring of Zapatero advisers. His allegiance is to Spain - rather than to Zapatero or even to his own career advancement - and he is idealistically motivated to "do the right thing." The Ambassador discounts speculation, which has existed since before the Ambassador arrived, that Zapatero will shuffle Moratinos out of his current post any time soon. The Ambassador believes that Moratinos suits the bill well enough for Zapatero's purposes. The Ambassador knows of no ill-will or jealousy on the part of Moratinos for Leon's growing influence with Zapatero.

24. (S) In meetings, Moratinos often tries to overpower or bully his interlocutors in an attempt to establish a superior negotiating position. It is fairly well known in Madrid among the Ambassadorial corps that Moratinos is given to screaming at foreign Ambassadors and chastising them at the first opportunity to put them in their place. It is a tactic that has caused many Ambassadors to leave with their tail between their legs. The Ambassador recommends that his successor and other senior-level USG interlocutors stand their ground against Moratinos and force him to deal with them on an even level. Once this happens, the relationship will likely prove far more harmonious. Meanwhile, Moratinos had a very healthy professional admiration for former Secretary of State Rice, whose attention he craved and whose approval he sought.

25. (S) Carme Chacon is smart and has gained enough respect to be effective as Defense Minister. She has also been a real asset to Zapatero in the way she has handled the portfolio in the public eye. However, she is immature in a political sense, according to the Ambassador. She is too focused on the little things - such as the lack of parity in the bilateral defense relationship or by implying that she needs to be treated with more deference - and is not focused on larger issues like weapons systems. She does not have a huge ego, but she is wearing the Spanish ego. The Ambassador says the USG will not be able to change her, so it will need

MADRID 00000071 006 OF 006

to adapt and work with her. She is still developing her political senses and will be an important player in Spanish politics for years to come. The Ambassador predicted that she will grow in her job and recommends future U.S. interlocutors treat her with an eye to the future. The Ambassador also remarked that Chacon is finding that all of the media attention she has received since she became Defense Minister can be a double-edged sword. Early favorable coverage (when she inspected the troops while pregnant) has lately given way to more negative, if irrelevant reports (as when she wore a controversial smoking jacket to a military parade).

26. (C) Finally, the Ambassador identified his Spanish counterpart in Washington, Ambassador Jorge Dezcallar (also discussed in Paragraph 5 above) as an important contact for the new Administration to cultivate in the bilateral relationship, predicting that Dezcallar will be a linchpin in the bilateral relationship in the year ahead. The Ambassador also suggests that Dezcallar would likely respond well to increased social interaction with USG officials.

CHACON

ID:	188592
Date:	2009-01-23 15:48:00
Origin:	<u>09MADRID78</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	09STATE4297 09STATE5430
Destination:	VZCZCXRO3769 PP RUEHAG RUEHROV RUEHSR DE RUEHMD #0078 0231548 ZNY CCCCC ZZH P 231548Z JAN 09 FM AMEMBASSY MADRID TO RUEHC/SECSTATE WASHDC PRIORITY 0104 INFO RUCNMEM/EU MEMBER STATES COLLECTIVE RUEHLA/AMCONSUL BARCELONA 3756 RUEHBS/USEU BRUSSELS

C O N F I D E N T I A L MADRID 000078

SIPDIS

E.O. 12958: DECL: 01/23/2019

TAGS: PGOV, PREL, EU, SP

SUBJECT: SPAIN'S PREVIEW OF THE JANUARY GAERC

REF: A. STATE 4297

B. STATE 5430

Classified By: ADCM William H. Duncan for reasons 1.4 (b) and (d).

1. (C) Poloff delivered reftel demarche to Spanish MFA Deputy Political Director Ricardo Lopez Aranda January 23. Lopez confirmed that the agenda changed in light of the Gaza conflict, with Russia/Ukraine and Guantanamo being the only other two topics which will receive substantive attention. Zimbabwe, although it remains on the agenda, will not be discussed but rather conclusions adopted on the EU common position.

2. (C) Gaza: Lopez said that the Gaza conflict discussion will focus on further development of the EU border assistance mission in Rafah, humanitarian aid and prevention of illicit weapons trafficking into Gaza. Lopez stated that Spain is concerned for the "security of Israel, but for the rights of Palestinians as well." He highlighted that the GOS has committed a contribution of 5 million euros to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in addition to the 1.5 million euros given early in the conflict for purchase of medical and sanitary supplies for the Gaza hospital.

3. (C) Russia/Ukraine: With respect to the Russia/Ukrainian gas crisis, Lopez stated that the discussion within the EU must be two-fold. First, he said that the EU must develop its political position with respect to an energy security strategy. The discussion must also include, however, strategies for relations with Russia and Ukraine individually. Lopez said that it is imperative that the EU act with "one voice," and encourage all parties to act

responsibly.

4. (C) Guantanamo: Lopez said that the FMs will engage in a preliminary, informal discussion regarding President Obama's plan to close Guantanamo and how the EU can assist. Comment: Although Lopez did not comment as to Spain's willingness to accept detainees, Spanish FM Moratinos has indicated that Spain is willing to cooperate in the closure, stating, "If we can do something, we will do it."

CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID97</u>	2009-01-29 11:11	2010-12-03 12:12	CONFIDENTIAL	Embassy Madrid

VZCZCXRO7877
RR RUEHLA
DE RUEHMD #0097/01 0291138
ZNY CCCCC ZZH
R 291138Z JAN 09
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC 0132
INFO RUEHLA/AMCONSUL BARCELONA 3774
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000097

SIPDIS

PASS TO ELAINE SAMSON AND STACIE ZERDECKI OF EUR/WE

E.O. 12958: DECL: 01/28/2019
TAGS: PGOV PREL SP
SUBJECT: SPAIN: ALLEGED SPYING SCANDAL HIGHLIGHTS
FRACTURES WITHIN MAIN OPPOSITION PARTY

REF: A. 08 MADRID 785
B. 08 MADRID 691
C. 08 MADRID 537

Classified By: ADCM William H. Duncan for reasons 1.4 (b) and (d).

1. (SBU) SUMMARY: Allegations and counter-allegations of a spying scandal within the center-right Popular Party (PP) highlight the party's rivalries. Reports surfaced on January 19 that the PP-led Madrid regional government's (analogous to a U.S. state) minister of justice and internal affairs, Francisco Granados, created a spy ring - allegedly financed by public funds and managed from official offices - to keep tabs on rival politicians within the PP itself. Photographic evidence of the surveillance has been made public, so there is a growing acceptance that these individuals were indeed monitored, but it is unclear by whom and for what purpose. Granados denies all the charges. Madrid Regional President Esperanza Aguirre, who holds a post equivalent to a U.S. Governor and is a leading force at the national level in the conservative wing of the Popular Party, has not been implicated in the scandal. However, several targets of the alleged espionage, such as Madrid Deputy Mayor Manuel Cobo, are allied to City of Madrid Mayor Alberto Ruiz-Gallardon, who represents the PP's moderate wing and is often identified as Aguirre's chief rival for eventual leadership of the party if current leader Mariano Rajoy steps down. Aguirre has counterattacked with allegations that it is the PP itself and Madrid's City Hall that have been keeping secret files on PP officials. The allegations have surfaced as regional and European elections loom on the horizon and have damaged the PP's attempts to present a united front following a prolonged and divisive debate last year about Rajoy's leadership.

//THE ALLEGATIONS//

¶2. (U) Leading news daily El Pais (left of center) broke the story on January 19. Marcos Pena, a former police inspector who had been hired by Granados as a security consultant, told the newspaper that he and a team of former Civil Guards ran investigations on individuals and that he prepared confidential reports for Granados alone. Among the growing list of alleged targets were Madrid Deputy Mayor Manuel Cobo, Madrid Regional Government Vice President Ignacio Gonzalez, and Alfredo Prada, former Madrid Regional Government Minister of Justice. Pena reportedly created detailed dossiers on each of these figures after having monitored their activities at work, outside the office, and even on trips abroad. Upon further investigation, El Pais says it encountered espionage data within Granados' office that pre-dates Pena's employment there, but also has reported that a civil servants' union is attacking Granados, claims that his office did not engage in espionage by publicly alleging that those among them who refused to cooperate in actions they perceived "verged on the illegal" and were "harassed and ridiculed" by outside "security consultants" that Granados hired. Photographic evidence of the surveillance has been made public, so there is a growing acceptance that these individuals were indeed monitored, but it is unclear by whom and for what purpose. According to the media, initial reports showed that the espionage was directed against key rivals of Aguirre who would have been likely to side with Rajoy. The spying appeared to be primarily aimed at determining who was conniving within the PP in the capital at a time of great upheaval in the party. Granados denies all the charges and says his office operates within the law.

¶3. (C) It is unclear what Aguirre knew or when she knew it; she at first disputed the veracity of the allegations, defended her subordinates, and called for anyone with knowledge of the facts to make it known to the proper authorities. In the second week of the scandal, however, she has come out fighting. She claims that she is a victim of a smear campaign by PP headquarters, which she says is after her politically. Spanish media reports suggest that PP headquarters has its own 69-page report - whose scanned index has been published - on the assets, friends, family and public decisions of her deputy, Gonzalez. Aguirre also has made counter-allegations, declaring that in 2006 Gonzalez discussed with Rajoy the existence of "secret" PP files on Gonzalez and Granados, which prompted Rajoy to phone Aguirre about the issue, which Aguirre admits later amounted to nothing compromising. The PP's former treasurer, Alvaro Lapuerta also has come forward, telling the press he informed Rajoy in March 2008 of his suspicions that he was being followed. However, some press reports suggest it was Lapuerta who assembled the 2006 files on Gonzalez and Granados. Finally, Aguirre has alleged that it is City Hall, led by Mayor Ruiz-Gallardon, rather than the regional office

MADRID 00000097 002 OF 002

which employs a parapolice espionage unit.

//THE POLITICAL BACKDROP - JOCKEYING FOR POWER WITHIN THE PP//

¶4. (C) Before the March 2008 general election, Aguirre maneuvered successfully to keep her arch-rival, Madrid Mayor Ruiz-Gallardon, off the PP,s congressional lists, and following the defeat of PP leader Mariano Rajoy in the general election, she tried to unseat Rajoy. She abandoned that attempt when it became clear she did not have sufficient support within the party. Media reports suggest the espionage began in March 2008, shortly after the general election (i.e., when Aguirre was mounting her coup against Rajoy). Regarding the spy scandal, Ruiz-Gallardon has said it appears that the regional government is employing an illegal para-police organization with espionage powers and has called for an investigation to clear up the matter.

¶5. (C) Rajoy has promised an internal PP investigation of the spying incident and has asked two trusted PP deputies to lead the inquiry. Despite being a two-time loser in Presidential politics and unrest in his own party, Rajoy won re-election as party leader last year. He thereafter pushed aside a number of party figures associated with former President Jose Maria Aznar and moved new figures, several of them female, into prominent positions in the party. The next scheduled opportunity to challenge him for the leadership will be at the PP convention in 2011 (the next general election is expected in 2012). Despite his post-general election moves to solidify his leadership, grumbling within the party about Rajoy has not stopped. Many say he has failed to take sufficient advantage of Zapatero,s vulnerability on the weak economy. The Galician and Basque regional elections on March 1 and the European parliamentary elections on June 7 could be key tests for Rajoy. In anticipation, Rajoy, has said publicly he will not interpret a PP loss in any of those elections as an indication of lack of public support him.

//LOOKING AHEAD - INVESTIGATIONS LIKELY TO UNCOVER MORE DETAILS//

¶6. (U) A slew of investigations have begun to attempt to uncover what really has been going on. In addition to the internal PP investigation mentioned above, Madrid Deputy Mayor Cobo filed a lawsuit on January 21 to get to the bottom of the scandal; public prosecutors began their inquiry the next day. Their first witness was the El Pais journalist who broke the story; the newspaper already has provided the files it has on the subject. Meanwhile, Investigating Judge Jose Sierra opened a case on January 26 to investigate the alleged espionage against Gonzalez while overseas, which Sierra has stated could be a violation of article 197 of the Penal Code and could result in a prison sentence of one to four years for anyone convicted of having carried out the surveillance. Granados is scheduled to appear in the Madrid regional Assembly on January 30 to clarify the facts.

¶7. (C) COMMENT: This spy scandal has erupted into a near free-for-all of allegations and counter-allegations of espionage, at least some of which appears to have been actually carried out, although by whom, on whose orders and for what purposes all remain to be revealed. It also remains unknown who is behind the constant source of leaks to the

press on the issue. This scandal, which will no doubt drag on for a long time, could become a serious liability for Esperanza Aguirre, a hyper-ambitious politician who sees herself as a future President of the Spanish Government. To the extent that Aguirre is damaged, Ruiz-Gallardon,s star may rise. Ruiz-Gallardon generally gets high marks as Mayor of Madrid. He is charming, sharp-witted, and has a reputation for honesty. An unknown is his vote-getting ability outside Madrid. During the Ambassador's farewell call with the Spanish President on January 16, Zapatero opined that Ruiz-Gallardon was the only member of the PP who could become President of Spain. As for Rajoy, while he may enjoy Aguirre,s discomfort, the scandal could add to the impression that the PP under his leadership is more concerned with its internal rivalries than with the problems of ordinary Spaniards. The only clear winner at the moment would seem to be Zapatero and the PSOE who not only benefit from the spectacle of PP fratricide but probably welcome the distraction from all the economic bad news on their watch.

CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID347</u>	2009-04-01 17:05	2010-12-01 23:11	CONFIDENTIAL	Embassy Madrid

VZCZCXRO6856

PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSR

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P 011701Z APR 09

FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC PRIORITY 0465

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEHTV/AMEMBASSY TEL AVIV PRIORITY 2439

RUEHLA/AMCONSUL BARCELONA PRIORITY 3928

RUEHIT/AMCONSUL ISTANBUL PRIORITY 0258

RUEHSR/AMCONSUL STRASBOURG PRIORITY 0007

RUCNFB/FBI WASHDC PRIORITY

RUEHNO/USMISSION USNATO PRIORITY 1549

RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY

RUCNDT/USMISSION USUN NEW YORK PRIORITY 0492

RUEHMD/USDAO MADRID SP PRIORITY

RUEKJCS/SECDEF WASHDC PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

RUEILB/NCTC WASHINGTON DC PRIORITY

RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

RUEAIIA/CIA WASHDC PRIORITY

Wednesday, 01 April 2009, 17:01

C O N F I D E N T I A L SECTION 01 OF 04 MADRID 000347

SIPDIS

EUR/WE FOR ELAINE SAMSON AND STACIE ZERDECKI,

L/LEI FOR KEN PROPP AND CLIFF JOHNSON

CA/OCS FOR PPLATUKIS AND MBERNIER-TOTH

INR FOR JANICE BELL

S/CT FOR MARC NORMAN

EMBASSY ROME FOR MOLLY PHEE

PASS TO NSC'S TOBY BRADLEY

PASS TO DOJ'S BRUCE SWARTZ AND DOJ/OIA/PAT REEDY

EO 12958 DECL: 03/31/2019

TAGS AORC, PREL, CASC, CJAN, PTER, PGOV, PHUM, PINS, SOCI,

KCRM, KJUS, KISL, Klig, SP

SUBJECT: SPAIN: PROSECUTOR WEIGHS GTMO CRIMINAL CASE VS.

FORMER USG OFFICIALS

REF: A. OSC EUP20090329950015 B. OSC EUP20090330950017 C. 06 MADRID

1914 D. 07 MADRID 2282 E. 08 MADRID 409 F. 07 MADRID 911 G. 07

MADRID 863 H. OSC EUP20080828085019

MADRID 00000347 001.2 OF 004

Classified By: ADCM William H. Duncan for reasons 1.4 (b), and (d)

¶1. (C) SUMMARY: A Spanish NGO has requested that the National Court indict six Bush Administration officials for creating a legal framework that allegedly permitted torture. The NGO is attempting to have the case heard by Investigating Judge Baltasar Garzon, internationally known for his dogged pursuit of "universal jurisdiction" cases. Garzon has passed the complaint to the prosecutor's office for them to determine if there is a legitimate case. Although he seemed displeased to have this dropped in his lap, Chief Prosecutor Javier Zaragoza told us that in all likelihood he would have no option but to open a case. He said he did not envision indictments or arrest warrants in the near future. He will also argue

against the case being assigned to Garzon. MFA and MOJ contacts have told us they are concerned about the case, but have stressed the independence of the Spanish judiciary. They too have suggested the case will move slowly. END SUMMARY.

The Accused

¶2. (U) The six accused are: former Attorney General Gonzales; David Addington, former chief of staff and legal adviser to the Vice President; William Haynes, former DOD General Counsel; Douglas Feith, former Under Secretary of Defense for Policy; Jay Bybee, former head of the DOJ Office of Legal Counsel; and John Yoo, a former member of Bybee's staff.

¶3. (SBU) The NGO that filed the criminal complaint is the Association for the Dignity of Spanish Prisoners. According to Spanish press reports, a team of four lawyers worked on the complaint. This team also brought a case for a different Spanish NGO in January 2009 against Ehud Barak and six senior Israeli military officials for alleged war crimes in Gaza in 2002. (Note: In early 2009, the press reported that FM Moratinos had told the GOI Spain would revise its universal jurisdiction laws to prevent such cases; we cannot corroborate this. End note.) Gonzalo Boye Tucet is one of the four lawyers behind the current lawsuit and is taking the lead with the media. Open source material identifies Boye as a Chilean-born lawyer who is a former member of the International Revolutionary Movement. He served eight years in a Spanish prison as part of a 14-year sentence he received for his role in the 1988 kidnapping of a Spanish businessman, a plot which reportedly was financed in part by ETA.

¶4. (C) The NGO is emphasizing that Spain has a duty to investigate because five Guantanamo detainees are either Spanish citizens or were/are Spanish residents. However, the NGO does not claim to be representing these individuals. Their names are: Hamed Abderrahman Ahmed (known in the media as "The Spanish Taliban"); Lahcen Ikassrien (aka Chaj Hasan); Reswad Abdulsam; Jamiel Abdul Latif al Bana (aka Abu Anas); and Omar Deghayes.

MADRID 00000347 002.2 OF 004

¶5. (C) The NGO has attempted to steer this case directly to National Court Investigating Judge Baltasar Garzon. For two decades, Garzon has generated international headlines with high profile cases involving Spanish politicians, ETA, radical Islamic terrorists, and crimes against humanity. Perhaps his most famous case was his attempt to bring to trial in Spain former Chilean ruler Augustin Pinochet. Garzon has a reputation for being more interested in publicity than detail in his cases. The NGO's argument for Garzon taking the case is that he investigated some of the individuals named in paragraph four as part of an investigation of al Qaeda cell in Spain. Garzon has passed the NGO's complaint to the prosecutor's office for them to determine if there is a legitimate case. The Complaint

¶6. (U) Post has forwarded the 98-page complaint to L. In sum, it alleges that the accused conspired with criminal intent to construct a legal framework to permit interrogation techniques and detentions in violation of international law. The complaint describes a number of U.S. documents, including: a December 28, 2001, memorandum regarding U.S. courts' jurisdiction over Guantanamo detainees; a February 7, 2002, memorandum saying the detainees were not covered by the Geneva Convention; a March 13, 2002, memorandum on new interrogation techniques; an August 1, 2002, memorandum on the definition of torture; a November 27, 2002, memorandum recommending approval of 15 new interrogation techniques; and a March 14, 2003, memorandum providing a legal justification for new interrogation techniques. The complaint also cites a 2006 U.S. Supreme Court case which it says

held the February 2002 memo violated international law and President Obama's recent Executive Order on ensuring lawful interrogations.

¶7. (C) The complaint asserts Spanish jurisdiction by claiming that the alleged crimes committed at Guantanamo violated the 1949 Geneva Convention and its Additional Protocols of 1977, the 1984 Convention Against Torture or Other Cruel, Unusual or Degrading Treatment or Punishment, and the 1998 Rome Statute. The GOS is a signatory to all three instruments. The complaint cites Article 7 of the 1984 Convention Against Torture, which states that if a person accused of torture is not extradited to the nation that is bringing a case against him or her, then the competent authorities in the country where the person is should bring a case against him or her. There is media speculation that one of the NGO's goals may be to encourage the U.S. to begin judicial proceedings on this matter.

¶8. (U) The complaint does not specifically call for arrest warrants. Rather, it ends with a call for the Spanish courts to take statements from the accused and to request information from the USG about the various internal documents cited in the complaint (declassification dates and authorities, an official report about the legal nature of memoranda such as the ones cited in the complaint, and an official report on the legal nature and binding force of Executive Orders).
Contacts with Spanish Authorities

¶9. (C) On April 1, POLOFF and Embassy FSN Legal Adviser met National Court Chief Prosecutor Javier Zaragoza, who said
MADRID 00000347 003.2 OF 004

that he personally will decide whether to open a criminal case. There is no statutory timeframe for his decision. Zaragoza said the complaint appears well-documented and in all likelihood he will have no option but to open a case (the evidence was on his desk in four red folders a foot tall). Visibly displeased with this having been dropped in his lap, Zaragoza said he was in no rush to proceed with the case and in any event will argue that the case should not be assigned to Garzon. Zaragoza acknowledged that Garzon has the "right of first refusal," but said he will recommend that Garzon's colleague, Investigating Judge Ismael Moreno, should be assigned the case. Zaragoza said the case ties in with Moreno's ongoing investigations into alleged illegal "CIA flights" that have transited Spain carrying detainees to Guantanamo. Zaragoza said that if Garzon disregards his recommendation and takes the case, he will appeal. Zaragoza added that Garzon's impartiality was very suspect, given his public criticism of Guantanamo and the U.S. war on terror (we note that, among other things, Garzon narrated a documentary in 2008 that was extremely critical of the U.S. involvement in Iraq and Afghanistan and its approach to fighting terrorism) and his August 2008 public statements that former President Bush should be tried for war crimes.

¶10. (C) Zaragoza noted that Spain would not be able to claim jurisdiction in the case if the USG opened its own investigation, which he much preferred as the best way forward and described as "the only way out" for the USG. He cited the complaint against Israeli officials mentioned above and said he would request the investigating judge close that case once he had formal notice that the Israelis had opened their own investigation.

¶11. (C) On March 31 and April 1, the Acting DCM discussed the case separately with FM Moratinos' Chief of Staff Agustin Santos, and MOJ Director General for International Judicial Cooperation Aurora Mejia. Santos said the case was worrisome. He noted that the Spanish judiciary was independent, but he opined that these universal jurisdiction cases often sputtered out after the initial burst of publicity. He also noted that they tended to move very slowly through the system. Mejia also stressed that the judiciary was independent,

and added that the MOJ had no official information regarding the case and knew nothing about it beyond what the media had reported. She said privately that the reaction to the complaint in the MOJ was "horror." A/DCM stressed to both that this was a very serious matter for the USG and asked that the Embassy be kept informed of any developments.

Comment

¶12. (C) Given Spain's reputation for liberally invoking universal jurisdiction, this may not be the last such case brought here (nor is it the first -- in 2007, a different Spanish NGO brought a complaint against former SECDEF Rumsfeld for crimes against humanity based on the Iraq war and Abu Ghraib. Zaragoza told us that case was quietly dismissed although he could not recall the grounds). The fact that this complaint targets former Administration legal officials may reflect a "stepping-stone" strategy designed to pave the way for complaints against even more senior officials. Both the media and Post's FSN Legal Advisor suspect the complaint was prepared with the assistance of lawyers outside Spain, perhaps in the U.S., and perhaps in

MADRID 00000347 004.2 OF 004

collaboration with NGO's such as Human Rights Watch or Reprieve. It appears to have been drafted by someone who understands the U.S. legal system far better than the average Spanish lawyer. For all the publicity universal jurisdiction cases excite (Garzon's attempt to extradite Pinochet from the UK comes to mind), we only know of one case ever tried here (involving a former member of Argentina's military junta). Based on what Zaragoza told us, we suspect the case will eventually be referred to the National Court for investigation, although that step may not come for some time. Once it reaches the National Court, these cases seem to move slowly, periodically generating publicity as new evidence is taken (as with Moreno's investigation into so-called Guantanamo flights). Whether this case will end up with Garzon, Moreno, or some other judge, we cannot say. Garzon, despite his penchant for publicity and criticism of certain aspects of U.S. policy, has worked well with the U.S. on more routine criminal matters (although we think a direct approach to him on this case could well be counter-productive). Moreno, while his reputation as a judge stands higher among legal insiders, has been cooler in his dealings us. We suspect the Spanish Government, whatever its disagreements with the policies of the Bush Administration, will find this case inconvenient. Despite the pro forma public comment of First Vice President Fernandez de la Vega that the GOS would respect whatever decision the courts make in this matter, the timing could not be worse for President Zapatero as he tries to improve ties with the U.S. and get the Spanish public focused on the future of the relationship rather than the past. That said, we do not know if the government would be willing to take the risky step of trying behind the scenes to influence the prosecutor's recommendation on this case or what their reaction to such a request would be. CHACON

ID:	200357
Date:	2009-04-02 13:02:00
Origin:	09MADRID351
Source:	Embassy Madrid
Classification:	SECRET//NOFORN
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S E C R E T SECTION 01 OF 03 MADRID 000351

NOFORN
SIPDIS

FOR EUR/WE, NEA, S/WCI, INR
PASS TO NSC FOR RASMUSSEN, BRADLEY

E.O. 12958: DECL: 03/20/2034
TAGS: PREL, PGOV, PTER, PHUM, MOPS, KAWK, KISL, KPAO, SP
SUBJECT: SPAIN: S/WCI ENGAGES GOS ON ACCEPTING GTMO
DETAINEES

REF: A. STATE 20757
B. SECSTATE 31088
C. 06 MADRID 2657

MADRID 00000351 001.2 OF 003

Classified By: ADCM William H. Duncan for reasons 1.4 (b) and (d)

1. (S//NF) SUMMARY: As part of a 10-nation visit through the Middle East and Europe, S/WCI Ambassador-at-Large Clint Williamson on March 23 met an inter-ministerial group of Spanish officials for discussions on the status of Guantanamo Bay (GTMO) detainees and the prospect of the GOS accepting some of them for resettlement. The meeting was the first in-depth bilateral discussion on the issue and took place after Secretary Clinton's February 24 meeting in Washington with Foreign Minister Miguel Angel Moratinos (See REFTEL A), in which he confirmed GOS openness to accepting GTMO detainees. END SUMMARY.

2. (C//NF) The GOS delegation was led by four Directors General (DGs) - Assistant Secretary equivalent - from three ministries: Luis Felipe Fernandez de la Pena, MFA DG for non-EU Europe and North America; Miguel Angel de Frutos, MFA DG for Consular Affairs and Assistance; Arturo Avello, the Ministry of Interior's DG for International Relations and Immigration; and Aurora Mejia, the Ministry of Justice's DG for International Judicial Cooperation. Fernandez de la Pena will accompany Deputy Foreign Minister Angel Lossada to Washington April 6-7.

//Efforts to Close Guantanamo and the Possible Role of the GOS//

3. (S//F) Ambassador Williamson noted the high priority placed by the new Administration on closing Guantanamo within one year, and explained the January 22 Executive Order signed by President Obama on his second day in office. The order called for a DOJ-led review process, currently underway, to reevaluate all 241 GTMO detainees. Each individual will be categorized as cleared for transfer, cleared for release, or able to be prosecuted. Of those cleared for transfer or release, an estimated 50-60, from countries such as China, Egypt, Tunisia, Libya, Syria and Uzbekistan, will not be transferred home due to humane treatment concerns. It is detainees from within this group, representing the lowest threat level, that the USG hopes to resettle in Europe. Williamson noted that this was critical if the USG was to be successful in closing GTMO, in that it would need the help of friends and allies who would be willing to accept some of the detainees. He added that the GOS would be able to review files on any detainees it considers for resettlement, and could also visit Guantanamo to conduct interviews. In response to a question from Avello, Williamson said that the USG will not provide legal documents for detainees, allowing countries to confer status (i.e., citizenship, asylum, legal residency with work permit) as they deem appropriate under their own laws.

4. (S//NF) The Ambassador also detailed security concerns regarding the 99 Yemeni detainees in custody whom the USG hoped to transfer to Saudi Arabia's rehabilitation program. GOS officials agreed that Sanaa is not in a position to guarantee security, but did not suggest a possible role for Spain in solving the Yemen issue.

5. (S//NF) Fernandez de la Pena stated that the GOS welcomed USG efforts to close the GTMO detention facility, which the GOS views as a "black hole" contrary to international law, and looked forward to responses to the questions posed by the recent EU delegation to Washington (REFTEL B). The Ambassador indicated that these were being addressed by a US interagency group and that written responses would soon be forwarded to Brussels. At the urging of the GOS representatives, Williamson provided generalized oral responses to the most pertinent questions affecting GOS decision-making, but noted again that definitive answers would be forthcoming. Fernandez de la Pena said the GOS "position of principle" is to take a "positive, constructive approach to the issue." However, he cited a number of legal and security-related concerns. The Spanish Supreme Court in

2006 overturned a six-year sentence by Spain's National Court

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against former GTMO detainee Hamed Abderrahaman Ahmed, claiming that evidence collected during his interrogation at GTMO was inadmissible. The ruling later became a precedent which prevented another former detainee, Lahcen Ikassrien, from being prosecuted in Spanish courts (REFTEL C). Citing reports from GOS security services, Fernandez de la Pena said, these same individuals are "not resting quietly at home." In addition, he expressed concern that civil lawsuits and criminal investigations could be initiated pursuant to the country's universal jurisdiction laws. The free movement afforded by the Schengen Zone also posed a problem. Fernandez de la Pena noted that the mitigating domestic security risks would be less challenging given the robust intelligence capacity developed by Spain over 40 years combating Basque terrorism and, more recently, radical Islamic terrorism. This same experience though, makes the GOS very cautious about incurring the extra security risks inherent in accepting GTMO detainees for resettlement.

6. (S//NF) Williamson acknowledged GOS security concerns, but noted that the group of detainees now being discussed were at a lower threat level. The USG was not requesting that countries detain or prosecute these detainees, nor were we suggesting the imposition of robust security measures. It would be up to each country to take whatever steps, if any, it felt necessary to mitigate risks. With respect to Schengen concerns, the Ambassador highlighted that both EU officials and lawyers for the detainees agreed that voluntary restrictions could be used to limit movement of transferees to within the Schengen country accepting them, and he noted that the EU was looking at other measures to assuage concerns about unfettered movement.

//Timeframe and U.S. Detainee Acceptance//

7. (S//NF) Regarding timeframe, Williamson indicated that the USG hoped an EU framework facilitating member state acceptance of detainees would be completed during the Czech Presidency of the EU. On U.S. acceptance of detainees, Williamson said it was one of many policy decisions under consideration. He elaborated that the USG will end up taking the most dangerous detainees and would likely bear responsibility for them for years to come, since many in this group would ultimately be prosecuted and imprisoned. Friends and allies were being approached to resettle those who pose less of a threat. Positive signals had been received from France, Hungary, Ireland, Lithuania, Portugal, Switzerland, Belgium and Italy. Upon hearing that USG negotiations with some of these European countries were much further advanced, Fernandez de la Pena seemed slightly concerned that Spain was behind the curve in engaging the USG on negotiations on this issue.

//Home Countries' Responses to Detainees' Resettlement Elsewhere//

8. (S//NF) Fernandez de la Pena inquired whether any countries of origin had protested their citizens being resettled elsewhere. Williamson acknowledged this was an issue with the Chinese Uighers. At the same time, Beijing did not downgrade relations nor recall its Ambassador when Albania took 5 Uigher detainees and there were no serious trade ramifications. Nevertheless, Williamson pointed out that the USG could not predict future reactions. Fernandez de la Pena voiced concern that by taking another country's nationals the GOS was implicitly calling the home country a human rights violator, which could have diplomatic ramifications. The Ambassador said that so far this had not been the case, and he pointed out that most of the countries involved had raised no objections to their nationals being re-settled elsewhere.

//Comment//

9. (S//NF) The Embassy was pleased to see that the MFA arranged an interagency discussion on the detainee issue. While Foreign Minister Moratinos has publicly voiced GOS support for accepting GTMO detainees, the issue is far from unanimous in Spain. Several opposition parties in parliament - where Zapatero's Socialists have an increasingly fragile

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minority government - have expressed concerns about how a prospective resettlement might take place, while there are also judicial questions about how this might occur within Spanish law and reservations by some on security implications for Spain. Nevertheless, the GOS representatives expressed appreciation for the explanations provided by Ambassador Williamson and indicated that these were extremely helpful for GOS decision-making. Going forward, it may be possible to take advantage of possible GOS concerns that it is at the rear of the pack in terms of EU countries engaging with the U.S. on detainee issues.

10. (SBU) Ambassador Williamson did not discuss ways in which Spain could support development of an EU framework, but will soon meet with the Spanish Ambassador to Washington to follow-up.

11. (U) This cable was cleared by Ambassador Williamson.
CHACON

D:	202776
Date:	2009-04-17 06:07:00
Origin:	<u>09MADRID392</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	09MADRID347 09MADRID383
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C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000392

SIPDIS

EUR/WE FOR ELAINE SAMSON AND STACIE ZERDECKI,
L/LEI FOR KEN PROPP AND CLIFF JOHNSON
CA/OCS FOR PPLATUKIS AND MBERNIER-TOTH
INR FOR JANICE BELL
S/CT FOR MARC NORMAN
EMBASSY ROME FOR MOLLY PHEE
PASS TO NSC'S TOBY BRADLEY, CAROLYN KRASS
PASS TO DOJ'S BRUCE SWARTZ AND DOJ/OIA/PAT REEDY

E.O. 12958: DECL: 04/16/2019
TAGS: AORC, PREL, CASC, CJAN, PTER, PGOV, PHUM, PINS, SOCI,
KCRM, KJUS, KISL, Klig, SP
SUBJECT: SPAIN: ATTORNEY GENERAL RECOMMENDS COURT NOT
PURSUE GTMO CRIMINAL CASE VS. FORMER USG OFFICIALS

REF: A. MADRID 383
B. MADRID 347

MADRID 00000392 001.2 OF 003

Classified By: Charge D'Affaires Arnold A. Chacon for reasons 1.4 (b)
a
nd (d)

1. (C) SUMMARY. On April 16, Candido Conde Pumpido, Spain's
Attorney General (AG), publicly stated that prosecutors will
"undoubtedly" not support a criminal complaint, filed by a

Spanish NGO with the National Court, to investigate six former USG officials, including former AG Alberto Gonzalez, for creating a legal framework that allegedly permitted torture. During a Q&A session of a previously scheduled public address, Conde Pumpido responded to a question on the issue by stating that he will not support the criminal complaint because it is "fraudulent," and has been filed as a political statement to attack past USG policies. The AG noted that the GOS could not pursue a complaint that targeted USG advisors while a similar suit against the Defense Secretary Rumsfeld (see REF B) had failed. While Conde Pumpido defended the GOS's investigation of universal jurisdiction cases to defend human rights, he said that the policy will not be used as a toy or a tool to force the GOS into investigating the decisions of another government. The AG added that if there is evidence of criminal activity by USG officials, then a case should be filed in the United States. Addressing next steps, the AG's press chief subsequently told the media that the Prosecutor's office will deliver the AG's recommendation to the National Court, where it will be up to investigating judge Baltasar Garzon - an outspoken critic of the Guantanamo detention facility who has publicly stated that former President Bush should be tried for war crimes - to decide whether to pursue the case or not. As reported in REFTELS, Conde Pumpido's public announcement follows outreach to GOS officials to raise USG deep concerns on the implications of this case. END SUMMARY.

//BACKGROUND ON THE CASE//

2. (C) As reported in REF B, a Spanish NGO - Association for the Dignity of Spanish Prisoners - in March 2009 requested that the National Court indict six former U.S. officials for creating a legal framework that allegedly permitted torture. The six accused are: former AG Alberto Gonzales; David Addington, former chief of staff and legal adviser to the Vice President; William Haynes, former DOD General Counsel; Douglas Feith, former Under Secretary of Defense for Policy; Jay Bybee, former head of the DOJ Office of Legal Counsel; and John Yoo, a former member of Bybee's staff. The NGO claimed that Spain had a duty to open a "universal jurisdiction" case because five Guantanamo detainees are either Spanish citizens or were/are Spanish residents. Although he seemed displeased to have this dropped in his lap, Chief Prosecutor Javier Zaragoza on April 1 privately told Embassy officials the complaint - at first glance - appeared well-documented and in all likelihood he would have no option but to open a case.

//ANNOUNCEMENT FOLLOWS INTENSIVE USG OUTREACH//

3. (C) Following revelations by the Spanish press that the complaint had been filed, the Acting DCM on March 31 and April 1 phoned FM Moratinos' Chief of Staff Agustin Santos, and MOJ Director General for International Judicial Cooperation Aurora Mejia about the matter. Both expressed their concern at the case but stressed the independence of the Spanish judiciary. The A/DCM stressed to both that this was a very serious matter for the USG and asked that the Embassy be kept informed of any developments.

4. (C) As reported in REF A, Senator Judd Gregg, accompanied by the Charge d'Affaires, raised the issue with Luis Felipe Fernandez de la Pena, Director General Policy Director for North America and Europe during a visit to the Spanish MFA on April 13. Senator Gregg expressed his concern about the case. Fernandez de la Pena lamented this development, adding that judicial independence notwithstanding, the MFA disagreed with efforts to apply universal jurisdiction in such cases.

5. (C) Zaragoza on April 14 called Embassy Madrid's FSN Legal Adviser and informed her that a more thorough study had revealed that the complaint was targeted against legal advisors with no executive authority and that it was legally difficult to establish what type of offense the six had committed and the degree to which they participated in the alleged offenses. Zaragoza said the complaint lacked details and was directed against USG policy rather than a specific perpetrator. He said he would ask Conde Pumpido to review whether Spain has jurisdiction in this case and indicated that he hoped the Spanish AG would draft a clear set of rules on how and when Spain should prosecute universal jurisdiction complaints.

6. (C) As reported in SEPTEL, Senator Mel Martinez, accompanied by the Charge d'Affaires, met Acting FM Angel Lossada during a visit to the Spanish MFA on April 15. Martinez and the Charge underscored that the prosecutions would not be understood or accepted in the U.S. and would have an enormous impact on the bilateral relationship. The Senator also asked if the GOS had thoroughly considered the source of the material on which the allegations were based to ensure the charges were not based on misinformation or factually wrong statements. Lossada responded that the GOS recognized all of the complications presented by universal jurisdiction, but that the independence of the judiciary and the process must be respected. The GOS would use all appropriate legal tools in the matter. While it did not have much margin to operate, the GOS would advise Conde Pumpido that the official administration position was that the GOS was "not in accord with the National Court." Lossada reiterated to Martinez that the executive branch of government could not close any judicial investigation and urged that this case not affect the overall relationship, adding that our interests were much broader, and that the universal jurisdiction case should not be viewed as a reflection of the GOS position.

7. (C) Meanwhile, the Embassy has been involved in DOJ-led talks to have Zaragoza - who attended the April 16 press conference - lead a four-person team of GOS officials to Washington for a possible meeting with U.S. Deputy AG David Ogden or AG Eric Holder during the week of May 18. Zaragoza's wife, who is Conde Pumpido's chief of staff, would reportedly be one of the four.

//COMMENT//

8. (C) Although not legally binding on the National Court, Conde Pumpido's announcement puts pressure on crusading judge Garzon, who has not yet accepted the case, not to proceed with the investigation. As described in REF B, Zaragoza has indicated to Post - and reconfirmed this in his April 14 phone call in Para 3 - that he would argue that the case should not be assigned to Garzon and instead would recommend that Garzon's colleague, Investigating Judge Ismael Moreno, should be assigned the case. Zaragoza said the case ties in with Moreno's ongoing investigations into alleged illegal "CIA flights" that have transited Spain carrying detainees to Guantanamo. Zaragoza acknowledges that Garzon has the "right of first refusal," but has told Post that if Garzon

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disregards his recommendation and takes the case, the prosecutor will appeal. When a judge disagrees with the prosecutor on how or what to investigate, then the prosecutor has the right to appeal to a higher court, in this case the National Court's Criminal Chamber, led by Javier Gomez Bermudez. During this period in which the jurisdiction of the case is in question, Garzon could still proceed with the case, including preparing MLATs to question to the accused, formally naming the accused as defendants, and issuing arrest warrants against them. Investigating judges in Spain, including and especially Garzon, have used this tactic frequently, particularly when these actions are popular with sizable segments of the Spanish population. This worst-case scenario remains a possibility at this point. Zaragoza has also told us that if a proceeding regarding this matter were underway in the U.S., that would effectively bar proceedings in Spain. We intend to further explore this option with him informally (asking about format, timing, how much information he would need, etc.) while making it clear that the USG has not made a decision to follow this course of action.

CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID440</u>	2009-05-05 15:03	2010-12-01 23:11	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

VZCZCXRO6630

RR RUEHAG RUEHAST RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHNP RUEHPD RUEHROV RUEHSK RUEHSR RUEHVK RUEHYG
DE RUEHMD #0440/01 1251534

ZNR UUUUU ZZH

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FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC 0590

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

RUEHLA/AMCONSUL BARCELONA 3971

RUCNFB/FBI WASHDC

RUEAWJA/DEPT OF JUSTICE WASHDC

RHEHNSC/NSC WASHDC

Tuesday, 05 May 2009, 15:34

UNCLAS SECTION 01 OF 02 MADRID 000440

SENSITIVE

SIPDIS

FOR EUR/WE, ALSO FOR L/LEI AND CA/OCS, DOJ FOR BRUCE SWARTZ
AND PAT REEDY

EO 12958 N/A

TAGS AORC, PREL, CASC, CJAN, PTER, PGOV, PHUM, PINS, SOCI,
KCRM, KJUS, SP

SUBJECT: GARZON OPENS SECOND INVESTIGATION INTO ALLEGED

U.S. TORTURE OF TERRORISM DETAINEES

REF: A. MADRID 392 B. MADRID 393 C. 08 MADRID 1280

MADRID 00000440 001.2 OF 002

¶1. (SBU) Summary: Spanish National Court (Audiencia Nacional) investigating judge Baltasar Garzon has announced he will pursue an investigation into allegations the U.S. tortured terrorism detainees at Guantanamo. He has yet to name any targets of his investigation. This comes days after he was forced to give up a related complaint filed by an NGO against six Bush Administration officials (ref a). At the urging of Spanish prosecutors, the earlier case was reassigned to another National Court judge who now appears to be trying shelve the case. The Chief Prosecutor for the National Court tells us he will also fight Garzon's latest move. Nevertheless, we suspect Garzon will wring all the publicity he can from the case unless and until he is forced to give it up. End summary.

¶2. (U) Garzon bowed to arguments by Spanish prosecutors and April 17 forwarded to National Court docketing authorities a case recently filed against six Bush Administration officials (ref a). That case was duly assigned to investigating judge Eloy Velasco. We learned May 5 that Velasco has declined to process that case saying that before moving forward the USG should be asked if proceedings are underway in the U.S. He also offered to transfer the proceedings to the U.S. under the MLAT. We are waiting for a copy of Velasco's ruling and will advise further when we receive it. Meanwhile, Garzon announced April 29 that he was commencing a separate investigation into alleged U.S. torture of terrorism detainees.

¶3. (SBU) LEGATT and Embassy FSN Legal Advisor met May 4 with National Court Chief Prosecutor Javier Zaragoza (protect) to discuss Garzon's latest move. Zaragoza said he had challenged Garzon directly and personally on this latest case, asking if he was trying to drum up more speaking fees. Garzon replied he was doing it for the record only

and would let it die. Zaragoza opined that Garzon, having gotten his headline, would soon drop the matter. In case he does not, Zaragoza has a strategy to force his hand. Zaragoza's strategy hinges on the older case in which Garzon investigated terrorism complaints against some Guantanamo detainees. In connection with those earlier investigations, Garzon ordered the Spanish police to visit Guantanamo and collect evidence against the suspected terrorists. Zaragoza reasons that he can use this fact to embarrass Garzon into dropping this latest case by suggesting Garzon in some sense condoned the U.S. approach to detainee issues circa 2004. Garzon took no action in 2004 when the suspects returned to Spain and reported to him their alleged mistreatment. Zaragoza said that if Garzon could not be shamed into dropping the case, then he would formally recommend Garzon do so and appeal if Garzon ignored him.

¶4. (SBU) Key to Zaragoza's plans is the fact that there is yet another Guantanamo-related case underway in the National Court. That case relates to so-called CIA flights carrying detainees to Guantanamo via Spain and is being heard by investigating Judge Ismael Moreno (ref c). The police officers whom Garzon sent to Guantanamo years ago are expected to testify before Moreno this month, and Zaragoza hopes their testimony will put on record Garzon's role in the earlier cases. (Note: In opening his most recent Guantanamo investigation, Garzon asked that Moreno turn his detainee flights case over to him; Zaragoza thought there was no chance Moreno would agree to do so. End note.) Zaragoza is also banking on the fact that Garzon is already in hot water over his excessive zeal in another case. A few months ago, Garzon opened an investigation into Spanish civil war atrocities. Garzon persisted in his investigation in the face of all advice to the contrary from prosecutors. The case was finally wrestled away from Garzon, but there is now a criminal complaint against him in the Supreme Court, alleging abuse of authority. That complaint has the support of Spanish prosecutors. Zaragoza doubts Garzon will risk a second such complaint.

¶5. (SBU) As we have reported, with respect to the earlier complaint against six Bush Administration officials, Zaragoza has repeatedly suggested that a USG affirmation that the U.S. is investigating the torture issue could help dispose of

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Spanish judicial inquires into the subject. In that regard, the Spanish press reported today that National Court investigating judge Fernando Andreu, who is handling a case against Israeli officials accused of war crimes in Gaza in 2002, has refused to drop the case despite a request from prosecutors. The prosecutors had argued that Israel was investigating the matter. In refusing to close the case, Andreu argued that Gaza was not part of Israel and thus Israeli authorities were not the ones who should be investigating crimes allegedly committed there. The press reports that the President of the Supreme Court and Spain's Judicial Council (Consejo General del Poder Judicial), Carlos Divar, is arguing for reforming the jurisdiction of the National Court to avoid having it turned into the "judicial police of the world." Zaragoza has commented to us that while many talk about limiting Spain's universal jurisdiction rules, it is unlikely politicians will act to do so.

Comment

¶4. (SBU) We believe Zaragoza is acting in good faith and playing a constructive role. Certainly he knows Garzon better than we do, having sparred with him before. Nevertheless, we do not share his optimism that this problem will go away anytime soon. Having started, it is hard for us to see why the publicity-loving Garzon would shut off his headline-generating machine unless forced to do so. And forcing him to

do so could take months. We also fear Garzon -- far from being deterred by threats of disciplinary action -- may welcome the chance for martyrdom, knowing the case will attract worldwide attention. In any event, we will probably be dealing with this issue for some time to come. Zaragoza will be in Washington in early June for LEGATT-organized consultations on CT cooperation. L and DOJ may wish take that opportunity to discuss these cases with him directly at that time. CHACON

ID:	208341
Date:	2009-05-22 13:16:00
Origin:	<u>09MADRID496</u>
Source:	Embassy Madrid
Classification:	UNCLASSIFIED//FOR OFFICIAL USE ONLY
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UNCLAS MADRID 000496

SENSITIVE
SIPDIS

STATE FOR L/DL, L/LEI AND EUR/WE, DOJ FOR DOJ/OFL PATRICIA
REEDY, OSD FOR MAGGIE SADOWSKA, NSC FOR TOBIN BRADLEY

E.O. 12958: N/A
TAGS: KLIB, PREL, SP, CJAN
SUBJECT: COUSO CASE: JUDGE REINSTATES CHARGES AGAINST U.S.
SOLDIERS

REF: 08MADRID542

1. (SBU) SUMMARY: May 21 Spanish National Court Judge Santiago Pedraz issued new indictments against three U.S. soldiers in connection with the death in Iraq of Spanish journalist Jose Couso in 2003. The charging document introduces new, recently obtained evidence, including statements from former Minister of Defense Frederico Trillo and former Foreign Minister Ana Palacio. Judge Pedraz argues that the new evidence contradicts the U.S. position that the soldiers were responding to hostile fire when their tank shot at the hotel in Baghdad. Issuance of international arrest warrants is probable. END SUMMARY.

2. (SBU) Background: Jose Couso died in April 2003 when a U.S. tank fired on the Palestine Hotel in Baghdad. In May 2003 the Couso family presented a criminal complaint before the Spanish National Court against members of the Third Infantry Division of the U.S. Army, accusing them of murder and war crimes. The case was dismissed by the Criminal Division of the National Court on May 13, 2008 (reftel). The court agreed with the National Prosecutor's Office that the investigating judge had not presented sufficient evidence to support the allegations. This ruling, however, did not close

the case, but rather left open the option for additional evidence to be obtained.

3. (SBU) New Evidence: In the charging document, significantly better drafted than the original complaint according to post's legal advisor, Judge Pedraz provides the following new evidence: expert opinion testimony from a Guardia Civil General on humanitarian law, testimony from former Minister of Defense Trillo, testimony from former Foreign Minister Palacio, additional testimony from three journalists present at the Palestine Hotel the day of the incident, testimony of former U.S. military intelligence officer Adrienne Kinne obtained during a May 13, 2009, interview with the television program "Democracy Now," Spanish military expert opinion on the use of arms and tanks, and aerial photographs of the hotel and surrounding area. Pedraz has not been successful in obtaining permission to travel to Baghdad or the testimony of foreign reporters at the Al Jazeera and Abu Dhabi television buildings in Baghdad also hit the same day allegedly by U.S. fire.

4. (SBU) Allegations: The judge charges the three soldiers with murder and crimes against humanity. In the charging document, Judge Pedraz argues that the accused violated Geneva Convention provisions, failing to use appropriate care in distinguishing between military and civilian targets. He states that based upon his evidence, the U.S. military knew that the hotel was where many foreign journalists were staying. Pedraz argues that according to other journalists in the hotel at the time, the tank had not come under fire before shooting at the Palestine Hotel. Judge Pedraz also points out that he has not received sufficient information from the USG on the U.S. investigation into the matter.

5. (SBU) Comment: The case continues to generate significant media interest. According to post's Spanish legal advisor, the National Prosecutor's Office is likely to appeal the indictment, as it did in 2005, arguing that the evidence is insufficient to support the charges. Judge Pedraz, reportedly close to the Couso family and passionate about the case, may be waiting then for the charges to be confirmed by the Criminal Division of the National Court before issuing arrest warrants. Given the efforts apparently made to present more compelling evidence and legal arguments, however, it is likely that arrest warrants are imminent. This is another subject Washington might wish to raise with National Court Prosecutor Zaragoza during his upcoming visit there.

DUNCAN

ID:	210907
Date:	2009-06-09 06:56:00
Origin:	<u>09MADRID551</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL//NOFORN
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C O N F I D E N T I A L SECTION 01 OF 03 MADRID 000551

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FOR EUR/WE, EUR/ERA, INR

E.O. 12958: DECL: 06/07/2019
TAGS: PREL, PINS, PTER, PINR, KHLS, KCIP, KCRM, SP, PGOV
SUBJECT: SCENESETTER FOR JUNE 23-25 WASHINGTON VISIT BY
SPAIN'S INTERIOR MINISTER

REF: A. MADRID 351
B. SECSTATE 56239
C. MADRID 440
D. MADRID 261
E. MADRID 484

MADRID 00000551 001.2 OF 003

Classified By: Charge D'Affaires Arnold A. Chacon for reasons 1.4 (b)
a
nd (d)

1. (C//NF) SUMMARY: Spanish Interior Minister Alfredo Perez Rubalcaba will meet senior officials from the DHS, DOJ, FBI, CIA, ODNI, NCTC, and possibly the NSC, during his June 23-25 visit to Washington, DC. USG interlocutors will find that Rubalcaba - who has wide-ranging responsibilities on security, law enforcement and intelligence issues - is very capable and serious but also charming. A career politician, Rubalcaba is arguably the most impressive member of Spanish President Zapatero's cabinet and a very useful and powerful

ally to have in the Zapatero Administration. His influence exceeds the formal parameters of his Ministry. Embassy Madrid judges the bilateral law enforcement relationship to be excellent, while the bilateral CT relationship is good but could be better. Rubalcaba is interested in signing either several bilateral accords or (if the accords cannot be ironed out in time) political declarations of intent to do so in the near future. The Minister has an extensive agenda - including counter-terrorism (CT), law enforcement, and intelligence issues - he wishes to discuss with US officials. While the focus of this trip will be on discussing bilateral issues, Rubalcaba also will address GOS interest in increased collaboration on justice and home affairs issues during Spain's upcoming stint as President of the European Union (EU) during the first half of 2010. END SUMMARY.

//US-SPAIN RELATIONS//

2. (C//NF) U.S.-Spain relations are strong and based on shared global interests. Spain is an important friend and ally and we value its cooperation against terrorism and a range of other security issues. Since the US presidential election in November, a strong atmosphere of goodwill has emerged in Spain for closer bilateral cooperation. As a gesture of this goodwill, the GOS presently is considering accepting some of the detainees currently held at Guantanamo (GTMO, see Ref A). XXXXXXXXXXXX. Spain also allows us the use of two military bases that are critical transit points between the U.S. and Iraq and Afghanistan. Recent irritants in bilateral relations, however, are the efforts by the Spanish judiciary - invoking "universal jurisdiction" - to indict former USG officials for their allegedly involvement in torture at GTMO. (See Ref C).

//RUBALCABA AND HIS MINISTRY//

3. (C//NF) A member of parliament since 1996, Rubalcaba is a three-time Minister who in mid-2008 also served a brief stint as acting Defense Minister. He is known for his intelligence, discretion, hard work, and mastery of detail, as well as his negotiating prowess. Rubalcaba was the Socialist party's longtime pointman on CT issues before Zapatero named him Interior Minister in early 2006. He is one of two or three individuals whom Zapatero often consults before making big decisions, and not only on issues within Rubalcaba's portfolio. A senior official within the

MADRID 00000551 002.2 OF 003

Socialist party with a reputation for getting things done, Rubalcaba excels at putting out fires and is a valued contact of the Embassy, which finds him accessible and effective in getting things done for us despite his busy portfolio. This will be Rubalcaba's first meeting with most of his USG interlocutors, although he first met DHS Secretary Napolitano in Berlin for the G6 1 meeting on March 15. The Minister speaks English but prefers to have an interpreter present for some of the more technical aspects of his official meetings.

4. (C//NF) The Ministry of Interior (MOI) oversees the Spanish National Police (SNP) and the paramilitary Civil Guard (GC). The MOI is a key cabinet post, as Spain confronts both the domestic terrorist group Basque Fatherland and Liberty (ETA) and radical Islamist terrorists and sympathizers. Spain's 40-year battle against ETA has given its security forces - and their intelligence wings - considerable CT expertise, although the GOS continues to adapt its methods to combating decentralized radical Islamists. Spain also faces a confluence of organized crime syndicates involved in the contraband of narcotics and other drugs, human trafficking and illegal immigration, money laundering and credit card fraud, and document falsification. Meanwhile, the SNP and GC increasingly are expanding their representation overseas as attaches in Embassies. Embassy Madrid recommends that USG interlocutors press Rubalcaba on sending GC and/or SNP personnel to help train security forces in Afghanistan and Iraq.

5. (C//NF) We believe Rubalcaba fully understands the extent of the lack of inter-agency cooperation between the SNP and the GC, as well as stovepipe problems between them and Spain's National Intelligence Center (CNI). He has overhauled the MOI to achieve greater inter-agency efficiencies. In 2006 he created an Organized Crime Intelligence Center (CICO) and in 2007 he created a National Center of Critical Infrastructure Protection (CNPIC). The director of Spain's National Center for Counter-Terrorism Coordination (CNCA, roughly equivalent to the NCTC) reports to Rubalcaba. XXXXXXXXXXXXXXX Rubalcaba has overseen a very forward-leaning CT strategy against both radical Islamists and - following the late 2006 car-bombing of the Madrid airport, which ended its unilaterally declared cease-fire - ETA. The GOS prides itself that its preventative justice approach, disrupting terrorist cells before they become operational, has resulted in no deaths at the hands of radical Islamists since 2004. Rubalcaba realizes he needs the USG on CT issues and therefore he has been cooperative with U.S. interlocutors on that topic.

//FOUR PROSPECTIVE BILATERAL ACCORDS//

6. (C//NF) Rubalcaba's staff tells us he hopes to sign up to four accords during his visit:

I) A US-proposed agreement on Preventing and Combating Serious Crime (PCSC), as discussed in Ref E.

II) An agreement on Cooperation in Science & Technology for Homeland Security Matters, using the existing US-Mexico agreement as a template.

III) An MOU formalizing ongoing cooperation on the DHS's Immigration Advisory Program (IAP) at Madrid's Barajas Airport, where a successful pilot program recently was carried out.

IV) An MOU to strengthen bilateral cooperation and reinforce efforts to locate fugitives.

//PROSPECTIVE ITEMS FOR DISCUSSION PER MEETING//

7. (C//NF) Rubalcaba hopes to sign the above accords with the DHS Secretary, with whom he also will discuss protecting critical infrastructure and combating counterfeit money. He will discuss ETA, border control issues, and the CSI. He also will suggest the creation of an alert system regarding the theft of nuclear materials by terrorists. Finally, he

MADRID 00000551 003.2 OF 003

will propose an exchange of liaison personnel to have officials present in each others' headquarters. On a multilateral issues, Rubalcaba will address GOS plans to "revitalize" the US-EU transatlantic partnership during Spain's EU Presidency. This may include an embryonic idea for a joint US-EU declaration on the fight against terrorism to be signed in Madrid on March 11, 2010, the sixth anniversary of the Madrid train bombings.

8. (C//NF) With the Attorney General and FBI Director, Rubalcaba will discuss the prospective accord on fugitives (See above). He also wants to discuss the CODIS database, cybercrime issues, cooperation regarding ETA, a proposal to intensify cooperation with the DEA, and efforts to fight organized crime and money laundering. He also will raise the GTMO detainee issue. Rubalcaba will have a role in deciding the GOS decision on the GTMO, based on security concerns and freedom of movement issues. Post recommends that Rubalcaba would be a logical person with whom to press the message that the various universal jurisdiction cases against former USG officials are not helpful.

9. (C//NF) Embassy Madrid is sending via other channels the proposed agenda for Rubalcaba's meetings with the DNI, CIA and NCTC.

10. (C//NF) The GOS has asked for an appointment with the U.S. National Security Adviser, with whom Rubalcaba would like to discuss the US-EU transatlantic agenda, a declaration of CT principles (See Para 9), and the issue of Guantanamo detainees. The Minister also would like to address radical Islamic terrorism in the Af/Pak region and in the Sahel.

11. (C) We suggest Washington interlocutors thank Rubalcaba for the excellent anti-organized crime and counter-narcotics relationships we enjoy in Spain and urge that we work jointly to find ways to improve the already good CT relationship. DOJ in particular will wish to thank him for Spain's assistance in extraditing arms trafficker Monzer al-Kassar in 2008.

CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID604</u>	2009-06-24 13:01	2010-11-29 21:09	SECRET//NOFORN	Embassy Madrid

VZCZCXRO7916

PP RUEHBC RUEHDBU RUEHDE RUEHDH RUEHFL RUEHKUK RUEHKW RUEHLA RUEHLH
RUEHNP RUEHPW RUEHROV RUEHSL RUEHTRO

DE RUEHMD #0604/01 1751358

ZNY SSSSS ZZH

P 241358Z JUN 09

FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC PRIORITY 0820

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUCNISL/ISLAMIC COLLECTIVE PRIORITY

RUEHLA/AMCONSUL BARCELONA PRIORITY 4033

RUEHGV/USMISSION GENEVA PRIORITY 0902

RUEKJCS/SECDEF WASHDC PRIORITY

RUEHBS/USEU BRUSSELS PRIORITY

RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

S E C R E T SECTION 01 OF 04 MADRID 000604

NOFORN

SIPDIS

FOR EUR/WE, NEA, S/GC, INR

PASS TO NSC FOR RASMUSSEN, BRADLEY

E.O. 12958: DECL: 06/20/2024

TAGS: PREL PGOV PTER PHUM MOPS KAWK KISL KPAO SP

SUBJECT: SPAIN: S/GC DAN FRIED

Reference ID	Created	Released	Classification	Origin
<u>09MADRID614</u>	2009-06-26 14:02	2010-11-30 12:12	SECRET//NOFORN	Embassy Madrid

VZCZCXRO0064

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ZNY SSSSS ZZH
P 261456Z JUN 09
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC PRIORITY 0838
RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEHLA/AMCONSUL BARCELONA PRIORITY 4038
RUEAIIA/CIA WASHDC PRIORITY
RUEHNA/DEA HQS WASHDC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RHEFDIA/DIA WASHDC PRIORITY
RUCNFB/FBI WASHDC PRIORITY
RUEILB/NCTC WASHINGTON DC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RHEFHQA/TSA HQ WASHINGTON DC PRIORITY
RUCNSE/US SECRET SERVICE WASHDC PRIORITY
RUEHMD/USDAO MADRID SP PRIORITY
RUEHBS/USEU BRUSSELS PRIORITY
S E C R E T SECTION 01 OF 04 MADRID 000614

NOFORN
SIPDIS

FOR EUR/WE, EUR/ERA, INR
PASS TO MARC FREY, DAVE GORDNER, KIKO CORTI, MIKE
SCARDAVILLE OF DHS

E.O. 12958: DECL: 06/25/2024
TAGS: PREL PINS PTER PINR KHLS KCIP KCRM SP PGOV
SUBJECT: SCENESETTER FOR DHS. SEC. NAPOLITANO'S JULY 1
MEETINGS IN MADRID

MADRID 00000614 001.2 OF 004

Classified By: Charge D'Affaires Arnold A. Chacon for reasons 1.4 (b)
a
nd (d)

¶1. (C//NF) Madam Secretary, Embassy Madrid warmly welcomes your visit, which comes on the heels of your June 24 meeting with Spanish Interior Minister Alfredo Perez Rubalcaba in Washington (Ref A). While one of the highlights of his trip was signing the bilateral accord on Preventing and Combating Serious Crime, one of the centerpieces of your Madrid trip will be to sign an MOU to formalize the DHS Immigration Advisory Program (IAP) at Madrid's Barajas Airport and a declaration of intent for our two governments to work toward concluding an agreement on Cooperation in Science & Technology for Homeland Security Matters. You will hold

meetings with President Jose Luis Rodriguez Zapatero, his Second Vice President, Elena Salgado, who also serves as Minister of Economy and Finance, and Interior Minister Rubalcaba. The Embassy also will co-host a reception in your honor, which will give you and your delegation an opportunity to meet a range of additional senior-level officials in the Spanish Government. Your visit will help to highlight the importance that the USG places on the overall bilateral relationship and the numerous programs that the DHS is working on with our Spanish hosts. While the focus of your trip will be on discussing bilateral issues, your interlocutors may express GOS interest in preliminary discussions to increase collaboration on justice and home affairs issues during Spain's upcoming stint as President of the European Union (EU) during the first half of 2010.

//US-SPAIN RELATIONS//

¶2. (C//NF) U.S.-Spain relations are strong and based on shared global interests. Spain is a valued US partner and an important geostrategic player that has achieved a remarkable transformation since the end of the Franco dictatorship 30 years ago. It is one of the leading democracies in Europe, and has the ninth-largest economy in the world. Spain is an important friend and ally, and we value its cooperation against terrorism and a range of other security issues. Since the U.S. presidential election in November, a strong atmosphere of goodwill has emerged in Spain for closer bilateral cooperation. As a gesture of this goodwill, the GOS presently is considering accepting some of the detainees currently held at Guantanamo (GTMO, see Ref B). In Washington, Rubalcaba publicly stated that Spain may accept as many as five detainees. Spain is an important NATO ally, a key player in the EU, and during January-June 2010 will hold the EU's rotating Presidency. XXXXXXXXXXXXXX, judicial, and information-sharing efforts, at least with us. The USG and GOS signed the Homeland Security Presidential Directive 6 (HSPD-6) information-sharing agreement in 2007. XXXXXXXXXXXXXX. The DHS/ICE office within Embassy Madrid has worked with GOS counterparts over the past year on successful running of the IAP and in operations targeting bulk-cash smuggling at Barajas Airport. Spain also is a founding member of the Proliferation Security Initiative and an active member in the Global Initiative to Combat Nuclear Terrorism. As per Ref C, Spain currently is being considered for

MADRID 00000614 002.2 OF 004

membership in the G-8 Partnership Against the Spread of Weapons and Materials of Mass Destruction. Spain also allows us the use of two military bases that are critical transit points between the U.S. and Iraq and Afghanistan. One recent irritant in bilateral relationship is are the efforts by some investigating judges - invoking "universal jurisdiction" - to indict former USG officials for their allegedly involvement in torture at GTMO (Ref D).

¶3. (SBU) Your visit to Madrid and Rubalcaba's visit to Washington are but the latest in a series of high-level

exchanges, including a presidential bilateral on the margins of the U.S.-EU Summit in Prague in April, a meeting between National Security Adviser Gen. Jones and King Juan Carlos I in Florida in February, and Foreign Minister Moratinos's February meeting in Washington with Secretary Clinton. At the end of May, U.S. Transportation Secretary LaHood became the first cabinet-level visitor to Spain on behalf of the Obama Administration. While you are in Madrid, Defense Minister Carme Chacon will be in Washington during June 30 - July 2 for discussions with Secretary Gates, among other meetings (Ref E).

//THE POLITICAL ENVIRONMENT//

¶4. (SBU) In office since 2004, Zapatero won reelection to a second term in March 2008, but his center-left Spanish Socialist Workers Party (PSOE) is seven seats shy of a majority in the 350-seat Congress. XXXXXXXXXXXXX. Unemployment is over 17%, the

highest rate in the EU, and it is expected to reach 20% sometime in the next year. Although popularity ratings for Zapatero and the Socialists are low, the conservative opposition Popular Party (PP) has struggled to capitalize on this. The PP, hampered by internal divisions, also has been dogged by corruption accusations. Nevertheless, Zapatero suffered his first serious political reverse since winning reelection when his party lost power in March 2009 regional elections in Galicia. Zapatero shuffled the cabinet April 7 as a response to criticism of the GOS' inability to resolve the economic crisis and with an eye to the June European Parliament elections. The most prominent change was the replacement of the Second Vice President/Minister of Economy and Finance. Even so, the PP secured more seats than the Socialists in the June 7 European Parliament elections, another sign that Zapatero needs to focus on the economic situation.

//YOUR MEETINGS//

¶5. (S//NF) XXXXXXXXXXXXX. He may even take credit, as in the case of adjustments in U.S.-Cuba policy, for shaping USG views. He is not innately ill-disposed to the USG. For him, foreign policy is subordinate to domestic political interests, and the U.S. relationship is just one more element to be viewed XXXXXXXXXXXXX.

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currently a wave of goodwill for President Obama in Spain, which is the answer to Zapatero's prayers in that it enables him to engage the USG without being dinged by the traditional anti-U.S. sentiment among his socialist base. XXXXXXXXXXXXX. Zapatero does not speak English, though we think he may understand it.

¶6. (C/NF) You will recall Interior Minister Rubalcaba - who has wide-ranging responsibilities on security, law enforcement and intelligence issues - as very capable and serious but also charming. XXXXXXXXXXXXX. He is known for his intelligence, discretion, hard work, and mastery of detail, as well as his negotiating prowess. XXXXXXXXXXXXX.

You and Minister Rubalcaba are scheduled to sign an MOU formalizing ongoing cooperation on the DHS's Immigration Advisory Program (IAP) at Madrid's Barajas Airport, where a successful pilot program recently was carried out. You are also scheduled to sign a declaration of intent for our two governments to work toward concluding an agreement on Cooperation in Science & Technology for Homeland Security Matters. Rubalcaba also is likely to continue his Washington discussions with you on the US-EU transatlantic agenda, border control issues, CSI, document falsification, money laundering, and an alert system in case of the theft of arms or explosives for terrorist purposes. He may discuss further his recent proposal for an exchange of liaison personnel to have officials present in each others' headquarters. In addition to the preceding topics, you may also wish to raise trafficking in persons, illegal immigration, Frontex issues, and Special Interest Alien Smuggling through Madrid-Barajas Airport en route to the United States. Rubalcaba speaks English but prefers to have an interpreter present during discussions of some technical aspects of his portfolio.

¶7. (C) XXXXXXXXXXXX. Elena Salgado is the Second Vice President and Minister of Economy and Finance. She was moved up from being Minister of Public Administration in April, as part of the broader cabinet shuffle intended to highlight an intensified GOS effort to combat the impact of the global economic crisis on Spain. Rubalcaba reportedly was an influential figure in supporting her appointment. XXXXXXXXXXXX. She previously served as Minister of Public Administration (2007-09) and Minister of Health (2004-07). The Spanish Government in 2006 unsuccessfully nominated Salgado as a candidate for the Presidency of the World Health Organization. Salgado also has extensive private sector experience in consulting and telecommunications industries. Salgado, born in 1949, has degrees in industrial engineering and economics. Salgado would be an appropriate GOS official with whom to discuss CSI, money laundering and bulk-cash smuggling, and the USG's

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relationship with Spanish Customs. Salgado speaks English.
CHACON

ID:	217648
Date:	2009-07-22 12:37:00
Origin:	<u>09MADRID742</u>
Source:	Embassy Madrid
Classification:	SECRET//NOFORN
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S E C R E T SECTION 01 OF 02 MADRID 000742

NOFORN
SIPDIS

FOR EUR/WE, NEA, S/GC, INR
PASS TO NSC FOR RASMUSSEN, BRADLEY

E.O. 12958: DECL: 07/21/2024
TAGS: PREL, PGOV, PTER, PHUM, MOPS, KAWK, KISL, KPAO, SP
SUBJECT: SPAIN ANALYZES GTMO FILES TO FIND "BEST FIT" FOR
RESETTLEMENT

REF: A. MADRID 614
B. TUNIS 415
C. MADRID 604
D. MADRID 551
E. MADRID 351

MADRID 00000742 001.2 OF 002

Classified By: CDA Arnold A. Chacon for reasons 1.4 (b) and (d)

1. (S//NF) SUMMARY. Following a July 2 meeting in Washington, the Spanish MFA asked to "reserve" four Guantanamo Bay (GTMO) detainees, pending the completion of due diligence on their files by the Spanish security services. Post subsequently has informed its MFA contacts on several occasions that S/GC agreed to hold the four "for a while" but would not reserve them indefinitely. Post has emphasized that this indeterminate period may be only a short

period of time and has stressed that the stated USG priority is to relocate GTMO detainees to countries that commit to accepting them, notwithstanding expressions of interest from other friends and allies. The MFA on July 17 upgraded its commitment for one of the four "reserved" detainees, but - in the face of a firm commitment by a third-country - waived its right to first refusal on another one. Spain continues to reiterate its decision to work with the USG in resettling a number of GTMO detainees and Post is working with the MFA to find the "best fit" for the GOS's criteria. As reported in Ref A, Interior Minister Alfredo Perez Rubalcaba publicly stated on June 23 during his recent visit to Washington that Spain may accept up to five GTMO detainees. END SUMMARY.

//Spain "Reserves" Four Detainee Files...//

2. (S//NF) On July 7, Luis Felipe Fernandez de la Pena, MFA DG for North America and non-EU Europe, phoned Special Envoy Dan Fried of the Office of the Special Envoy for the Closure of the Guantanamo Detention facility (S/GC). The Spaniard requested - and was granted - that Madrid be allowed to "reserve" a Syrian (SY-489), two Palestinians (SA-049 and WE-684), and a Yemeni (YM-252). A series of follow-up phone calls took place between on July 16, 17, and 20, in which the two diplomats confirmed each party's interpretation of what had been agreed in the original July 7 phone call. They also discussed third-country interest in some of the four cases, based on information sharing and discussions with third-countries prior to Madrid's request to "reserve" them for Spain. The USG has agreed to give Madrid a right of first refusal if - while Spain's due diligence is still underway - another country is ready to commit to accepting any of them. Faced with the prospect of a firm commitment by a third-country to accept YM-252, Fernandez de la Pena in the July 17 phone call upgraded the GOS claim from "reserved" to "blocked," thus preventing another government from accepting that detainee. The GOS on June 30 had submitted a non-paper with a series of additional questions for the USG on YM-252, the answers of which were provided to the MFA on July 16. Of the original four detainees that Madrid spoke up for, two Palestinians also remain "reserved" for Spain and are not currently under consideration by other foreign governments.

//... But Lets One Slip Through Its Fingers//

3. (S//NF) However, Spain was not ready to commit to a second detainee (SY-489) whom the same third-country had offered to accept. When given the chance on July 17 to exercise its right of first refusal on SY-489, Spain did not do so. As of July 20, S/GC is in discussions with a third-country regarding this Syrian detainee.

//Readout and Follow-up on July 2 Meeting in Washington//

4. (S//NF) On July 2 Amb. Fernandez de la Pena and Arturo Avello, the Ministry of Interior's DG for International Relations, held meetings in Washington with S/E Fried and S/GC Deputy Director Tony Ricci. The Spaniards appeared eager to express that they want to be helpful, though their mission now is to find the "best fit" detainees for Spain.

They are intent on balancing the security implications with the diplomatic implications, so ideally they would want detainees that are a lower threat, but would result in little friction with foreign governments (they raised Yemen, Azerbaijan, and Uzbekistan as examples). The Spaniards were told that the USG can look into whether detainees from these countries are possibilities for Spain and that, given the balance the GOS is trying to achieve, Palestinians may be a good option.

5. (S//NF) POLOFF on July 10 followed up to the July 2 meetings in Washington by providing to Fernando Prieto, MFA DG for North America, the case file for another Syrian detainee (SY-317) for GOS consideration. POLOFF also asked if - in light of Spain's request to reserve the four detainees - the GOS were interested in reviewing any additional files. POLOFF explained that we had one more file - that of an Uzbeki, (UZ-675) - that might interest the GOS. Prieto contacted POLOFF on July 13 and said that the GOS had agreed to receive the UZ-675 file, which POLOFF then passed to the MFA that same day. In response to a question by POLOFF, Prieto also confirmed July 7 Spanish press reports that detainees from "neighboring countries," - ie., Tunisia, Algeria or Morocco - would not be suitable for Spain. In our next meeting on July 13, however, Prieto changed his story somewhat, saying that he had spoken with Fernandez de la Pena and the latter wanted to make sure that Washington understood that case-by-case security considerations related to the four Tunisian detainees originally proposed by S/GC on June 17 had been the deciding factor in the GOS's decision, while their nationality had been a "complementary" or secondary factor. COMMENT: Despite the MFA's claims that case-by-case security concerns were the priority factor, Post does not believe that the GOS is seriously considering files on detainees from "neighboring countries." This claim, however, allows the GOS to portray itself as not having been influenced by pressure from those detainees' home governments. (See Ref B).

//The Tally on GTMO Detainee Files Passed to Spain Thus Far//

6. (S//NF) To date, the GOS has received 15 GTMO detainee case files. S/E Fried hand-delivered the files of four Tunisians (TS-046, TS-502, TS-892, TS-894) during a visit to the MFA on June 17; the file on the first Yemeni (YM-252) was hand-delivered to the MFA by POLOFF the next day. During the July 2 meeting in Washington, the GOS delegation received an additional seven files: two Palestinians (SA-049, WE-684), two Libyans (LY-654 and LY-709), and three Syrians (SY-307, SY-312, and SY-489). POLOFF delivered to the MFA the file on an additional Syrian (SY-317) on July 10, and the Uzbeki file (UZ-675) on July 13. On July 20, POLOFF provided a file on a second Yemeni (YM-692) who may be eligible for transfer to Spain. S/GC has informed Post that more Yemeni files may be provided to Spain for review.

7. (U) Special Envoy Fried has cleared this cable.
CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID982</u>	2009-10-06 16:04	2010-12-03 21:09	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

VZCZCXRO3247
PP RUEHIK
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INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 4140
RUCPDO/DEPT OF COMMERCE WASHDC
UNCLAS SECTION 01 OF 02 MADRID 000982

SENSITIVE
SIPDIS

STATE FOR EUR/WE, EEB/TPP/IPE, AND EEB/CIP
STATE PASS USTR FOR D.WEINER AND J.GROVES
COMMERCE FOR 4212/DON CALVERT

E.O. 12958: N/A
TAGS: KIPR ETRD ECPS KCRM SP
SUBJECT: SPAIN: INTERNET PIRACY UPDATE

REF: MADRID 417 AND PREVIOUS

MADRID 00000982 001.3 OF 002

SUMMARY

¶1. (SBU) Secretary of State for Telecommunications and the Information Society Francisco Ros told Econoffs at an October 6 AmCham breakfast that "within a matter of days," the GOS will announce a series of measures designed to tackle Internet piracy. The President of the Coalition of Creators and Content Industries reported separately that the Coalition may reach a "de minimis" agreement with the association of Internet Service Providers (Redtel) in the next week or two, leading to a government initiative. In his formal remarks at the breakfast, Ros briefly addressed IPR issues, characterizing the assertion by copyright-dependent industries that Spain has one of the highest Internet piracy rates in the world as an "urban legend." USG officials and U.S.-based industry representatives will have an opportunity during Ros's October 19-22 visit to Washington to challenge this view. End Summary.

¶2. (U) On October 6, State Secretary (Under Secretary equivalent) Francisco Ros addressed an audience of about 80 at an AmCham-hosted breakfast, speaking on "The Development of the Information Society in Boosting U.S.-Spain relations." Following that event, he met with the AmCham's Intellectual

Property Committee, composed of representatives of the software, film, music, and video games industries.

A DEAL IMMINENT?

¶3. (SBU) In a conversation with Econoffs before the event began, State Secretary Ros, who is scheduled to visit Washington November 19-22, said that the government will announce a new initiative related to IPR protection and Internet piracy "in a matter of days." Econoffs later spoke to Aldo Olcese, President of the Coalition of Creators and Content Providers, who confirmed that the government was putting considerable pressure on Redtel, the ISP association, to agree to what Olcese characterized as a "de minimis" anti-piracy agreement. The Coalition is not enthusiastic about the proposed agreement but intends to accept it as a way to get the government more actively engaged in finding and implementing solutions. Olcese estimated that the first part of the agreement, establishing a government authority that would take action against a number of high-profile websites known to make pirated content available, could be ready by the end of this week. The second part, on making legal content available online, could, if accepted by Redtel, be ready by October 16, he said.

REMARKS

¶4. (U) In his formal remarks, State Secretary Ros provided statistics on the impressive growth in Internet penetration in Spain and as well as the strong performance of the IT sector in the face of the economic downturn. A major focus of his remarks was promotion of the 3rd International Forum on Digital Content (FICOD 2009) to be held in Madrid, November 17-19. The GOS has invited the U.S. to participate in FICOD as the featured country ("invitado de honor") and is seeking USG and private-sector participation.

¶5. (U) Towards the end of his speech, Ros turned briefly to IPR issues, commenting that "there are no objective data provided by any entity that shows that Spain has more Internet piracy than its neighboring countries." He characterized assertions by industry that Spain has one of the highest Internet piracy rates in the world as an "urban legend." He referred to Eurostat figures that he said show that Spanish youth share files at about the same volume as their peers in the UK, France, and Germany. Nevertheless, he said, Spain takes IPR protection seriously and is among the first countries to promote collaborative international actions to combat the phenomenon. Ros argued that no country can solve the piracy problem on its own and that a global approach is needed. Spain hopes to develop such an approach during its January-June 2010 Presidency of the European Union. Meanwhile, he stressed that "putting into place measures that don't work" only serves to create false expectations that lead to disappointment and frustration.

METING WITH AMCHAM IP COMMITTEE

¶6. (U) In his subsequent meeting with the AmCham's Intellectual Property committee, Ros returned to these

themes, averring that Spain's "bad reputation" for piracy predates the era of illicit downloads and file-sharing, and derives from the street piracy practice known as "top manta," in which infringing goods are sold at informal street markets, and hidden under blankets when police appear.

(Note: "Top manta" is still widespread in Spain, but police have been increasingly effective in combating it in recent years, though there have been calls to decriminalize the practice since it is allegedly practiced by impoverished immigrants. End Note.) He insisted that the practices and habits of Spanish Internet users are no different than those of people in other, similar countries. In this context, he insinuated that Spain's placement on the Special 301 Watch List in 2008 and 2009 was arbitrary and unfair.

¶7. (U) Ros said any attempt to reduce online piracy should have three components: repression, education, and the exploitation of new models to make content legally available online. He added that the Spanish government is seeking ways, under existing authority, to pursue and take out of commission some 100 websites that are responsible for perhaps as much as 80 percent of infringing content. Defending the Spanish government's IPR performance, he cited figures showing the number of cases of Internet piracy pursued by police and prosecutors over the past four years, even while recognizing that many judges in Spain are not well equipped to understand or dispose correctly of intellectual property cases. Ros also mentioned public education campaigns Spain has undertaken, while noting that content providers needed to offer an alternative to illegal downloading and file-sharing, using new forms of distribution to make quality products available on the Internet at attractive prices.

¶8. (U) Ros told the rights-holders' representatives that "very soon," Spain's Council of Ministers will receive for its approval a proposal for regulatory reform to address digital piracy. While not ruling out new legislation to strengthen the government's authority, Ros lamented that getting a law through Congress could take years and would likely arouse bitter opposition.

¶9. (U) AmCham President Jaime Malet and various of those present told State Secretary Ros that the important point was not whether piracy in Spain was worse than in other countries, but rather that it was clearly bad enough to merit and require forceful government action. In order for content providers to invest more in the Spanish market, there needs to be an adequate legal and regulatory framework to support quality content and make possible a decent return on investment. The film and music industries have seen marked declines in sales over the past several years, attributable to the growth of Internet piracy. Ros claimed that Spain's legal and regulatory framework was on a par with those of France, Germany, and the UK.

COMMENT

¶10. (SBU) While not challenging to his face Ros's assertions

that industry has wrongly stigmatized Spain, a number of industry representatives present were clearly incensed with his "urban legend" remark and the argument behind it. A representative of a local Disney affiliate told Econoff afterwards that his company take serious issue with Ros's claim that there are no objective data showing Spain's piracy problem to be worse than other countries'. Aldo Olcese cited the attitude behind Ros's assertions as illustrative of the difficulties the Coalition has encountered in trying to get the government to act more vigorously against Internet piracy. During his visit to Washington, Ros will meet with the International Intellectual Property Alliance (IIPA) and the Motion Picture Association of America (MPAA), among others. These groups will no doubt challenge his denigration of their data and his complacent assessment of Spain's Internet piracy situation and legal regime. USTR will also have the opportunity to help him understand why Spain is on the Watch List and what it must do to get off it. The news from both Olcese and Ros that an agreement and a government initiative are close to fruition is certainly welcome, and such an agreement, however modest, would be an important step in the right direction.. End Comment.

CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID1003</u>	2009-10-15 06:06	2010-12-01 21:09	CONFIDENTIAL	Embassy Madrid

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FM AMEMBASSY MADRID
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INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
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RUEHLA/AMCONSUL BARCELONA 4147
RUEAIIA/CIA WASHDC
RUEHNA/DEA HQS WASHDC
RUEAWJA/DEPT OF JUSTICE WASHDC
RUCNFB/FBI WASHDC
RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 001003

SIPDIS

FOR ALEX MCKNIGHT AND STACIE ZERDECKI OF EUR/WE
ALESSANDRO NARDI OF EUR/ERA
JENNIFER MCELVEEN AND STEPHEN WOROBEK OF INR/TNC
JOHN REGAS OF NIC
THOMAS FIRESTONE OF EMBASSY MOSCOW

SCOTT HARRIS OF INL
PASS TO BARRY M. BRAUN AND KAREN GREENAWAY OF FBI'S
CRIMINAL INVESTIGATIVE DIVISION
PASS TO TOM OTT AND BRUCE OHR OF DOJ'S CRIMINAL DIVISION
EO 12958 DECL: 10/15/2019
TAGS PREL, PINR, KCRM, KCOR, KJUS, SP, RS
SUBJECT: SPAIN: ANTI-MAFIA PROSECUTORS WELCOME USG
OUTREACH, SEEK COLLABORATION
REF: A. MADRID 870 B. MADRID 869
MADRID 00001003 001.2 OF 002

Classified By: Acting Deputy Chief of Mission William Duncan for
reason s 1.4 (b) and (d)

¶1. (C) SUMMARY. Embassy Madrid POLOFF and POL/GSO Officer from the Barcelona CG on September 29 met Gerardo Caverio, Barcelona's chief prosecutor on counter-narcotics and organized crime, and Fernando Bermejo, the city's prosecutor for anti-mafia, anti-corruption and money laundering issues. They also are dual-hatted as special prosecutors on these issues within Catalonia's Superior Court of Justice who work in conjunction with counterparts from the national government in Madrid. The two welcomed USG outreach to begin a working relationship based on mutual interests. They expressed interest in meeting DOJ and/or FBI officials during proposed travel to Barcelona on November 13 to speak to private audiences on criminal justice issues, money laundering issues as well as the Russian mafia (See Ref A). COMMENT: Separately, Embassy Madrid understands from the US Consular Agent in La Palma that Mallorcan authorities involved in the June 2008 arrest of Russian crimelord Gennadios Petrov (see Ref B) are

prepared to host a dinner for visiting USG officials on November 11 or 12. END SUMMARY AND COMMENT.

//Taking on the Russian Mafia//

¶2. (C) Bermejo claimed that there is large scale money laundering going on in Catalonia and "many, many" members of the Russian mafia are active in the region. (NOTE: In Spain, the term "Russian mafia" refers to organized crime members from not only Russia but also all other former members of the USSR.) He and Caverro suggested that public declarations by senior Spanish officials in mid-2008 (see Ref A) that the raid that nabbed Petrov and others had "decapitated" the Russian mafia in Spain were optimistic statements made in a moment of euphoria that did not reflect the current reality. They asserted that the Russian mafia presence has not diminished. Bermejo said that Russian mafia leaders were originally drawn to Spain's Costa Brava as a vacation destination. Recognizing the opportunities and lax law enforcement, however, the Russian mafia subsequently started using Catalonia as a base for money laundering and other illegal ventures. He asserted that Catalonia cannot allow itself to become a refuge for the Russian mafia nor can it prejudice the investments of legitimate Eurasian businessmen.

¶3. XXXXXXXXXXXXXXX

. END COMMENT.

¶4. (C) Bermejo agreed with the notion that money talks, and added this is especially true when the amounts being offered as bribes are so large. Bermejo related to USG officials a saying that in Italy, the mafia is so powerful that it can buy judges. He then added that Italian author Roberto Saviano, famous for his work on the Italian mafia, has commented that the judicial system in Spain is so corrupt that the mafia does not need to buy judges. COMMENT: USG officials understood that Bermejo believed there was an element of truth in what Saviano said. END COMMENT.

¶5. (C) Bermejo and Caverro are part of a small office - three prosecutors and 4-5 staffers - that is short-handed because their workload is so extensive. Bermejo was promoted to his anti-mafia post in June. Press commentary prior to his appointment identified Bermejo as the best candidate for the job. He took over for David Martinez Madero, who stepped down following death threats by the Russian mafia (See Ref A). Bermejo stated that he has inherited the death threat, which is against the person filling the anti-mafia prosecutor post rather than the individual per se. Bermejo, who had a bodyguard when he worked as a prosecutor in San Sebastian due to threats from Basque terrorist group ETA, will have a bodyguard in his current post. Bermejo, who mentioned several times in passing that he currently works closely with Austrian and Swiss authorities, indicated his willingness to meet Embassy LEGAT and DEA officials during one of his upcoming trips to Madrid. CHACON

Reference ID	Created	Released	Classification	Origin
<u>09MADRID1152</u>	2009-12-02 12:12	2010-12-03 21:09	UNCLASSIFIED//FOR OFFICIAL USE ONLY	Embassy Madrid

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TO RUEHC/SECSTATE WASHDC 1520
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 4248
RHEHNSC/NSC WASHDC
RUCPDOG/DEPT OF COMMERCE WASHDC
UNCLAS SECTION 01 OF 04 MADRID 001152

SENSITIVE
SIPDIS

STATE FOR EUR/WE AND EEB/TPP/IPE
STATE PASS USTR FOR D.WEINER AND J.GROVES
STATE PASS U.S. COPYRIGHT OFFICE FOR M.WOODS AND M.PALLANTE
COMMERCE FOR 4212/DON CALVERT
COMMERCE ALSO FOR USPTO

E.O. 12958: N/A
TAGS: KIPR ETRD ECPS SP
SUBJECT: MADRID IPR CONFERENCE: GOS MOVES TOWARDS
ANTI-INTERNET PIRACY MEASURES

REF: A. MADRID 1137

1B. MADRID 1096
1C. MADRID 1075
1D. MADRID 1052
1E. MADRID 982

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SUMMARY

11. (U) As part of FICOD 2009 (see ref A), on November 18 the Spanish government hosted a Conference on IPR in the Digital Environment. The Conference featured several speeches and a series of roundtables on different aspects of online IPR protection. Michele Woods of the U.S Copyright Office was a panelist in a roundtable on policies and legislative measures. MPAA CEO Dan Glickman delivered remarks outlining the rights-holders' point of view. The Conference was informative, with high-quality presentations The roundtable discussions helped shed light on efforts underway in various countries to address the problem of Internet piracy; the Conference was thus particularly timely as the GOS is expected to unveil a series of measures to combat piracy-promoting websites by the end of the year.

12. (SBU) MPAA CEO Glickman told the Charge that his meetings with the two Ministers most responsible for combating

Internet piracy were encouraging. Minister of Industry, Tourism, and Trade (MITYC) Miguel Sebastian told Glickman unambiguously that the Inter-Ministerial Commission's recommendations will include an administrative course of action to block or take down pirate websites. MITYC had heretofore been believed to oppose such an approach, and Sebastian's embrace of it may be a sign that the GOS is preparing to implement measures with teeth, though not as much as rights-holders would like to see. End Summary.

¶3. (U) MITYC's Secretariat of State for Telecommunications and the Information Society (SETSI) organized the conference as part of the third annual FICOD. It opened with an address by Paul Brown, Vice-President of Spotify, a free, legal online music service that has recently become available in Spain and that was also featured recently in Economist articles about successes in reducing online music piracy. Spotify is supported by advertising revenue or, for those who wish to avoid the ads, paid subscriptions. The increased prevalence of legitimate vehicles for making content available, and the need for much more legal content online as a means of reducing the temptation to pirate, were major recurring themes of the conference.

LEGISLATIVE ISSUES

¶4. (U) The roundtable on policies and legislative measures included government officials from the U.S., the UK, Germany, Sweden, and France, and a WIPO representative. Michele Woods, Senior Counsel for Policy and International Affairs at the U.S. Copyright Office, discussed the Google Books case, its Revised Settlement Agreement, and implications for orphan works. Steve Rowan of the UK Intellectual Property Office (IPO), reported on recent developments in that country, including new draft legislation adopting a "three strikes" approach, which involves cutting Internet service to those who repeatedly download illegally. Representatives of the German and Swiss Justice Ministries addressed various enforcement issues, including implementation of the EU Enforcement Directive and prosecution of the Pirate Bay principals. A French Culture Ministry official updated the audience on the HADOPI law, which after many setbacks is to take effect at the beginning of the year with the promulgation of implementing regulations. It is evident that in the United States and many European countries, there is a great deal of activity taking place on a variety of fronts.

APPROACHES TO COMBATING ONLINE PIRACY

¶5. (U) The roundtable on The Fight Against IPR-Infringing Activities on the Internet was moderated by Guillermo Corral, Director General for Policy and Cultural Industries at the Ministry of Culture, who spoke about GOS efforts to encourage negotiations between the Coalition of Creators and Content Industries and the Internet Service Providers' (ISP) association (Redtel). He also alluded to the Inter-Ministerial Commission formed October 9 (ref D) to make

recommendations to the government. The first panelist, Aldo Olcese, spoke of changes that have taken place in his first year as president of the Coalition, which previously consisted of copyright management entities and various film and music producers and distributors and audiovisual groups. The Spanish Association of Video Game Publishers and Distributors (aDeSe) joined the Coalition in January, and Spain's major book publishing industry association joined later in the year. Awareness on the part of the government and the general public has grown, Olcese said, and the content providers don't feel as isolated as they did before. He characterized continuing efforts to finalize an agreement between the Coalition and Redtel as "difficult" and predicted that such an agreement will only be realized "at the last minute."

¶6. (U) Olcese outlined what he called the "Spanish model" for combating piracy, a model which he characterized as "more democratic" than the approach in other countries, as it seeks to reduce online availability of pirated material while leaving the end user alone. The Spanish model is focused on the producers and distributors of pirated content, the pirates' "supermarket." Per ref D, on October 19 the Coalition delivered a list of 200 alleged commercial-scale pirate websites to the MITYC to be passed to the Prosecutor General's Office (Fiscalia) for investigation and prosecution, and also urged MITYC to take independent action against the sites. (Comment: It remains unclear what authority MITYC may have beyond the ability to levy modest fines, nor are we aware whether the any GOS entity is contemplating action against any of the listed websites. End Comment.) At the same time, the Coalition has been actively developing a "business model" approach and plans to launch a "macro website" to help users in Spain gain access to legal content online so that they will be less inclined to download it without authorization. Both MITYC and the Ministry of Culture have expressed the intention to provide financial support to the macroweb. Olcese noted that identifying the right mix of incentives and sanctions to deter Internet piracy is still a matter of trial and error; nobody knows which model will work best.

¶7. (U) Maria Teresa Arcos, Executive Director for ISP association Redtel, hailed the creation of the Inter-Ministerial Commission and said the ISPs seek the continued growth of a legal online market and an end to the dichotomy between technology and culture. She also cited the European Parliament's recent approval of the telecom package" and the importance of finding a balance between competing rights. While acknowledging the importance of dissuasive measures, Arcos focused on the need for attractive legal offer with flexible prices and said Redtel looks forward to the launching of the Coalition's macroweb.

¶8. (U) Jesus Rubi of the Spanish Data Protection Agency (AEPD) stated that data protection is not inimical to intellectual property protection. He noted, however, that under Spanish law, Internet Protocol addresses and their association with individual users are personal data and thus protected from disclosure in most circumstances. Under the European Court of Justice's January 2008 ruling in Promusicae

v. Telefonica, ISPs are not required to disclose users' identities in civil litigation, and governments are not obliged to compel them to do so. Governments are only required to seek a balance between privacy and property rights. Rubi noted that the Congressional Sub-committee on Intellectual Property had recently sent a questionnaire to AEPD, which had replied by suggesting several points to be taken into account if Congress wishes to consider amending existing legislation.

RIGHTS-HOLDERS' CONCERNS

¶9. (U) Juan Junquera, Chief of Staff to Secretary of State for Telecommunications and the Information Society Francisco Ros, moderated the panel on the rights-holders' point of view. Olivia Regnier of the International Federation of Phonographic Industries (IFPI) cited figures showing that 95 percent of peer-to-peer (P2P) downloads of music are unauthorized and thus illegal. She also pointed to figures showing a steady decline in traditional music sales in Spain since 2001 and said called for more cooperation on the part

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of ISPs in combating illicit downloads.

¶10. (U) Dan Glickman, Chairman and CEO of the Motion Picture Association of America (MPAA), referred to President Zapatero's October 21 speech to the American Business Council (ref D) in which he outlined the concerns of both the USG and the GOS over IPR protection in Spain. Calling piracy a "dagger through the heart" of creators, Glickman noted that great quality works of art require both a conduit and an artist. The Internet can be a powerful tool for the dissemination of culture but also poses unique challenges for which there is no magic solution. Voluntary agreements with ISPs are welcome but are not enough in themselves; government has a necessary role to play. The digital environment will continue to grow as a medium for cultural transmission, but the physical environment should not be overlooked. The notion of "free content," while seductive to some, is an invitation to anarchy. Legal online offers of content will not work unless they are well-implemented within an adequate legal infrastructure. Glickman stressed the importance of a constructive, balanced solution and said MPAA looks forward to the GOS announcement of concrete measures by year's end.

¶11. (U) Antonio Guisasola of the Music Producers of Spain (Promusicae), in an oblique reference to State Secretary Ros's characterization (ref E) of Spain's Internet piracy problem as an "urban legend," sought to dispel two urban legends of his own. The first is that the music industry wants to do away with the Internet; the second is that a lack of legal online alternatives is the reason piracy flourishes in Spain. There are, he said, 370 legal music services in Europe, with more appearing all the time. Consumers are able to choose from among a range of options and are increasingly getting better deals. Guisasola announced the launch of Promusicae's own portal, www.elportaldemusica.es, to link Spanish users to prominent legal sites. But legal offer, he

said, is not enough. He cited a Jupiter Research Study showing that 32% of users in Spain frequently use P2P facilities, compared to an average of 15% for Europe. Of those, 52% say that free downloading has reduced their purchases of original music. Also, only 32% of Spaniards surveyed said they thought P2P activity was illegal, compared to 64% in France, 79% in Germany, and 70% in Europe as a whole. Guisasola said more cooperation is needed from ISPs, and there must be a credible risk of real punishment to deter wrongdoers. Carrots can help, but sticks are needed as well. Responding to Junquera's reminder that P2P is not illegal per se, but is a technology that can be put to legal or illegal uses, Guisasola countered that almost all P2P downloads of music are illegal.

¶12. (U) During the question-and-answer period, one questioner asked whether the Inter-Ministerial Commission will recommend dissuasive action only against websites that house infringing material, or also against P2P portals. Junquera replied that the GOS is constrained from going after P2P activity by the basic Constitutional principle protecting private communications from government interference. IFPI's Olivia Regnier demurred, pointing out that P2P activity is a form of public, not private, communication. Junquera, however, reiterated that the focus of GOS enforcement efforts will be on websites that host or provide links to infringing content. He also sought to clarify State Secretary Ros's "urban legend" remark, which has been much-criticized by content providers. The GOS, he said, does not deny that Internet piracy is a serious problem in Spain, deserving of government attention. The GOS does, however, take issue with assertions that Spain has significantly higher rates of Internet piracy than its European neighbors, and that it is among the worst in the world in this regard.

¶13. (U) The Conference included one final roundtable, on implications for IPR of online social networks, and a speech by Duke University Law Professor James Boyle.

COMMENT

¶14. (SBU) Though 2009 has been a frustrating year for right-holders, there is a good chance it will end on a positive note. In a meeting with Charge, MPAA CEO Dan Glickman expressed satisfaction with his meetings with Industry, Tourism, and Trade Minister Miguel Sebastian and

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Minister of Culture Angeles Gonzalez-Sinde. Sebastian, he said, was quite forthright and specific about the Commission's work: It will deliver its recommendations by year's end; these will include amending the law to give government more tools to combat piracy; and one component will be "an administrative course of action" to block offending websites. According to various sources, State Secretary Ros (who reports to Sebastian and was present at his meeting with Glickman) and his staffers had been opposing such an administrative remedy in the Commission's discussions (refs B-C), but have apparently been brought around by the

other Ministries represented. Rights-holders, however, remain concerned that the government may implement only half-measures. Promusicae staged a demonstration in front of MITYC on December 1 and presented Minister Sebastian with a petition signed by 2,500 music professionals calling on the government to take "valiant measures, as the French and British governments have already done, to protect their culture and jobs." End Comment.

CHACON

ID:	238241
Date:	2009-12-04 16:44:00
Origin:	<u>09MADRID1161</u>
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UNCLAS SECTION 01 OF 04 MADRID 001161

SENSITIVE
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STATE FOR EUR/WE AND EEB/TPP/IPE
STATE PASS USTR FOR D.WEINER AND J.GROVES
STATE ALSO PASS U.S. COPYRIGHT OFFICE FOR M.PALLANTE AND
M.WOODS
COMMERCE FOR 4212/DON CALVERT
COMMERCE ALSO FOR PTO

E.O. 12958: N/A
TAGS: KIPR, PGOV, SP
SUBJECT: SPAIN: GOVERNMENT'S PROPOSED ANTI-INTERNET PIRACY
LEGISLATIVE MEASURES GENERATE CONTROVERSY

REF: A. MADRID 1152
B. MADRID 1137
C. MADRID 1052

MADRID 00001161 001.3 OF 004

SUMMARY

1. (U) On November 27, Spain's Council of Ministers approved for submission to Congress a draft Law for a Sustainable Economy (LES), designed to modernize and restructure the economy to make it more competitive. Septel will address the law's scope and major provisions. One aspect of the draft legislation proposes amending existing intellectual property laws to facilitate government action to deter Internet piracy. Rights-holders generally support the proposals as a first step towards reducing Internet piracy, though music industry representatives have expressed disappointment that the government did not go further. All political parties except the ruling Socialists have expressed opposition to the measures. Internet users' associations have reacted with shrill denunciations. A manifesto harshly critical of the government's proposals that appeared on the Internet early on

December 2 has reportedly garnered tens of thousands of adherents. Opponents have announced plans to demonstrate December 4 in Madrid and other cities. The Minister of Culture met with a group of Internet experts in an effort to restore calm, and the Presidency put out a clarifying press release. However, in a December 3 press conference, President Zapatero denied any intention on the part of the government to close websites and intimated that the draft provisions may be rewritten. Two Vice Presidents and the Minister of Justice also made comments that left the government's ultimate intentions unclear. End Summary.

NEW LEGISLATION PROPOSED

2. (U) The anti-Internet piracy provisions anticipate recommendations that the government's Inter-Institutional Commission (see reftels) is mandated to forward to the government by December 31. According to Salvador Soriano, Deputy Director for Information Society Services in the Secretariat for Telecommunications and the Information Society (SETSI), the Commission reached consensus on the need for these legislative changes and decided to attach them to the best available legislative vehicle instead of waiting until the end of the year. The legislation seeks to amend Law 34 of 2002, the Law on Information Society Services and Electronic Commerce (LSSI), and Royal Legislative Decree (RLD) 1 of 1996, which incorporates the Law on Intellectual Property (LPI), in ways designed to provide more protection for IPR on the Internet. The primary change would be to expand the scope of Article 8 of LSSI.

3. (U) LSSI Section 8.1 empowers "competent organs" to take the necessary measures against an "Information Society service" that it finds to be acting to the detriment certain interests. These include national defense, public order (including criminal investigation), public safety, public health, consumer and investor protection, respect for personal dignity and non-discrimination, and protection of minors. In such cases, the competent organ may order the service interrupted or the damaging material removed. Final Disposition 1 of the draft LES proposes to add "safeguarding intellectual property rights" to this list of interests that could justify interrupting service or removing offending material. It then adds a new Section 8.2 granting the "competent organ" the authority to identify persons responsible for IPR-infringing activity - site owners, executives, or administrators - by asking Internet Service Providers (ISPs) for the information, and requires the ISPs to comply with such requests.

4. (U) In support of these measures, LES would also amend the RLD 1 to expand the jurisdiction of an existing Intellectual Property Commission affiliated with the Ministry of Culture. This Commission is responsible for mediating and arbitrating IPR-related disputes. The draft law would establish a "Second Section" of the Commission as the "competent organ" under LSSI Articles 8 and 11 (which requires service providers to cooperate with such entities). Rules for naming members of the Second Section, as well as its specific functions and procedures, are to be addressed by a separate

regulation.

5. (U) According to government officials, the Second Section would act not on its own initiative but in response to complaints about websites that make copyright-protected content available without authorization. It would examine such complaints while respecting "the maximum guarantees of inherent rights and principles," requesting of the ISPs such information as "addresses and ownership of websites" but not personal data. Its objective would be the "re-establishment of legality via the removal of content disseminated without authorization."

TARGETING THE "SUPPLY SIDE" OF PIRACY

6. (U) Culture Minister Angeles Gonzalez-Sinde and Industry, Tourism, and Trade Minister Miguel Sebastian have stressed on numerous occasions that the government will not target individual users nor criminalize activities such as downloading or file-sharing via peer-to-peer (P2P) programs. The LSSI language allows the government to interrupt "an Information Society service," i.e., a website but not an individual user's account. The government thus disavows any intention to implement a graduated response regime such as contemplated in recently enacted legislation in France. Their specific intent is rather to impede access to infringing content. The Coalition of Creators and Content Providers has identified some 200 "commercial scale" websites (ref C) that allegedly either house or link to such content and that will no doubt be among the first targets of the Second Section if and when Congress passes the LES.

CONTENT PROVIDERS GENERALLY POSITIVE, SERVICE PROVIDERS MUM

7. (U) Some rights-holders - especially representatives of the music industry - argue that this limitation will leave users free to continue to engage in unauthorized P2P downloading and thus will not significantly deter piracy. They are especially concerned that the government is not seeking to address Internet users' underlying attitude or behavior, which they see as key to reducing piracy. However, Coalition spokesmen and representatives of several of its constituent organizations have expressed support for the legislative proposal as a step in the right direction.

8. (U) While many content providers wish the government would go further, they also believe these measures probably represent the most that can be achieved at this point and that accepting them will enhance rights-holders' ability to press the government for more stringent measures in the future. Jose Manuel Tourne of the Federation for the Protection of Intellectual Property in Audiovisual Works (FAP) said the measures could help transform an environment in which a substantial segment of the population currently believes (or affects to believe) that anything goes on the Internet. He also expressed hope that amending the Internet IPR legislative regime would lead the Prosecutor General's Office (Fiscalia) to modify its Circular 1 of 2006, which has

led to much misunderstanding and some adverse judicial decisions.

9. (SBU) Neither the Internet Service Providers' (ISPs) association, Redtel, nor its constituent companies - Telefonica, Orange, Vodaphone, and Ono - have commented thus far on the government's proposal. Some press reports suggest the ISPs were caught by surprise and are dismayed. However, SETSI Deputy Director Soriano, who works in a Secretariat that maintains close ties with telecoms, said these measures had been under consideration for some time and the ISPs knew they were coming. They were discussed in on-again, off-again negotiations between the Coalition and Redtel. When these talks failed to reach fruition, the government decided to move ahead unilaterally. In the past year, both Redtel and its most influential member, Telefonica, have stated publicly that if the government wants to combat Internet piracy, it should legislate, and service providers will obey the law. It remains to be seen whether the ISPs will support or oppose these proposals.

OPPONENTS DECRY CENSORSHIP, ABUSE OF DUE PROCESS, GOVERNMENT OVERREACH

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10. (U) Reaction from the Association of Internet Users ("Internautas") and like-minded organizations, however, was immediate and vocal. On the morning of December 2, a 10-point Manifesto in Defense of Fundamental Rights on the Internet appeared on the Internet and in the first two days had reportedly gained tens of thousands of adherents. The Manifesto argues that "copyright cannot be placed above citizens' fundamental rights such as privacy, security, the presumption of innocence, effective judicial protection, and freedom of expression." Its authors decry the empowerment of an administrative entity to do judges' work, and claim that bypassing the judicial system violates due process. They protest that the measures, if approved, will damage the technology sector and inhibit new cultural creation on the Internet, and further argue that content providers should abandon their obsolete business model and seek new ways to profit from their work on the Internet.

11. (U) Several attorneys specializing in telecommunications and Internet law published op-eds opposing the measures, arguing that websites should not be shut down without a judicial order. An opinion piece in daily El Mundo by self-proclaimed "Surfer's Lawyer" Carlos Sanchez Almeida, entitled "Closing Websites: The Sinister Second Section," denounces "the systematic contempt with which our political class treats the judicial power." Sanchez further argues that the proposed amendments to the LSSI represent governmental overreach and open the door to a variety of potential abuses. A headline in daily of record "El Pais" proclaimed the birth of an "Internet cultural police," while El Publico's headline quotes an attorney as saying that "The door to censorship on the Web has opened." Other commentators were somewhat more measured, noting that the EU

telecom passage recently approved by the European Parliament will not require a court order for cutoff of Internet access, but rather "a fair and impartial process that includes the user's right to be heard," and note that the proposed measures are considerably less severe than those in place in the UK, France, and Germany. A few columnists questioned what all the fuss was about if the government wanted to shut down operations that were openly distributing stolen goods.

12. (U) Opposition parties and some small parties nominally allied with the government unanimously criticized the proposed anti-Internet piracy proposals. Perhaps most significantly, a spokesman for the main opposition Popular Party (PP) accused the government of proposing the creation of a cultural police force that would "bring back censorship" and turn the Minister of Culture into "the Big Brother of the Internet." He added that "a revolution is being forged on the Internet against the government, and we have to pay attention as if it were taking place in the streets." The PP official likened suspension of websites to "governmental kidnapping of a communications medium." The United Left (IU) declared itself "belligerent" with respect to the proposals and argued that links to unauthorized content are in fact legal. Weakened by the economic crisis, the government has no stable majority in Congress and will need to round up votes from smaller parties to pass this law. Passage of the LES is a high priority of President Zapatero, who describes it as reorienting the Spanish economy to a more sustainable model. The government is expected to ask Congress to address the legislation expeditiously.

GOVERNMENT INTENTIONS UNCLEAR

13. (U) Culture Minister Gonzalez-Sinde appeared in the Senate December 2 to explain the proposals and met on December 3 with a group of bloggers, journalists, and Internet professionals and experts who asked her to remove the proposals from the draft legislation. After a two-hour debate, the Minister reiterated that the government intends to move ahead. President Zapatero's office (Moncloa) issued a press release to explain and clarify various aspects of the proposed measures, noting they are fully compatible with the EU telecom package. Moncloa cited the importance of IPR protection to the continued development of Spain's essential cultural industries as a motive force behind the initiative, and called piracy an act of illegal competition. Moncloa also promises that affected parties will be able to appeal to

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judges if they believe their Constitutional rights are being abridged by the IPR administrative process.

14. (U) In a conversation with Econoff, SETSI Deputy Director Soriano said the strident opposition was to be expected and would not deter the government from moving the legislation forward on a priority basis. Likewise, Carlos Guervos, Deputy Director for Intellectual Property at the Ministry of Culture, asked about the manifesto and other shrill commentary, quoted the proverb that "the dogs bark but the

caravan moves on," and added that now was the time for his Ministry "not to go wobbly."

15. (U) At a press conference late on December 3, President Zapatero appeared to distance himself from the legislative proposal, saying that "Nothing will be closed, no web and no blog. If the draft law has been interpreted (as containing) some possibility of closing one of the spaces of the sites that is on the web, I'm telling you now that there's no way. If something needs to be cleared up about the wording, it will be done...and of course, I'm giving my opinion, freedom of expression will always prevail." Zapatero went on to express support for strong government action to protect intellectual property, "because if we don't, we'll be without intellectual strength, without intellectual creation." First Vice President Maria Teresa Fernandez de la Vega stated that "there has always been judicial control and there always will be," suggesting that the government may seek to replace the Second Section's administrative review with a judicial process. Justice Minister Francisco Caamano said the closing of websites should include "judicial authorization and control." Further confusing the matter, Second Vice President (and Minister of Economy and Finance) Elena Salgado said the Congress could try to "perfect" the draft legislation but that "a judicial order is necessary to shut down Internet access but not to suspend it." One contact told us that the Council of Ministers will address the controversy and the draft legislation during their weekly meeting today.

COMMENT

16. (SBU) As this debate continues to unfold, post notes that on December 3, the Ministry of Health and Social Policy reportedly began the process of taking down four websites for selling medication illegally and without prescription. The Health Ministry's actions appear uncontroversial. Government authorities take action every day that in some way regulates or restricts Internet activity, and the society seems no less open for their efforts. At the same time, distrust of the government's good intentions and of its ability to deliver good results run high. Thus, fears of censorship and invasion of piracy, while expressed in this instance in alarmist and scare-mongering fashion, remain very real to some. The government faces a serious challenge in trying at long last to undertake concrete measures to protect IPR online, and the outcome is uncertain. End Comment.

CHACON

ID:	244215
Date:	2010-01-19 17:34:00
Origin:	<u>10MADRID49</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	
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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000049

SIPDIS

FOR EUR/WE

E.O. 12958: DECL: 01/19/2020

TAGS: PREL, SP

SUBJECT: AMBASSADOR SOLOMONT'S JANUARY 18, 2010, MEETING
WITH SPANISH MINISTER OF INTERIOR RUBALCABA

Classified By: Ambassador Alan D. Solomont, Reasons 1.4(b),(d).

1. (C) Summary. The Ambassador met with Interior Minister Alfredo Perez Rubalcaba January 18. They discussed additional Spanish law enforcement assistance in Haiti; the controversy surrounding the FBI,s use of a Spanish politician,s photograph from the internet to create an image of the bureau,s most wanted terrorist, Osama bin Laden; Secretary Napolitano,s upcoming visit to address an EU informal ministerial on aviation security; Guantanamo detainees; law enforcement cooperation, in particular information sharing; Al Qaida in the Islamic Maghreb; and Spanish training of security forces in Afghanistan and Iraq. End summary.

2. (C) The Ambassador praised Rubalacaba,s support, coordination, and cooperation across the board on law enforcement matters, underscoring USG appreciation and desire to strengthen even more the already strong partnership with Spain. The Ambassador said the USG had high expectations of Spanish leadership in the Presidency of the EU and recognized Rubalcaba,s preeminent and influential role in the Spanish Government in getting things done. The Ambassador said the USG needs Spain to be a strong partner, as the world,s problems were too big to solve alone.

Llamazares

3. (C) The Ambassador reiterated USG regret that Spanish politician and congressional deputy Gaspar Llamazares, photo had been used to create an age-processed image of Osama bin Laden. He explained that the FBI forensic artist had

selected features from a database of stock reference photographs to create the image and was unaware the subject he used was a Spanish politician. He added that there was no political or other motivation, that the similarities between the photos (posted on the Rewards for Justice website) were unintentional and inadvertent. Ambassador said that the Embassy had acknowledged the error and contacted Llamazares on January 16 who seemed satisfied with our outreach. Even so, the FBI was looking into the process that led to the unintended depiction and would offer a letter of explanation. Embassy Legatt would be contacting Llamazares to set up a meeting to clarify the matter. Rubalcaba welcomed the Embassy actions to put the controversy to rest, noting that Llamazares, despite his leftist leanings, was a good chap with lots of common sense.

Haiti

4 (C) The Ambassador briefed Rubalcaba on the devastation in Haiti and the USG and international reaction to it. He noted the positive role of Spanish law enforcement in Haiti and said that Haiti would need additional EU and Spanish police support to deal with the deteriorating security situation there. Rubalcaba noted Spanish Vice President Fernandez de la Vega,s recent visit to Haiti and Spain,s efforts in Brussels to lead a coordinated, robust EU response to the humanitarian tragedy and increasing lawlessness. He anticipated that Spain and the EU would be asked to provide more police assistance, and said that Spain would do its part with additional Civil Guard elements. He lamented Venezuelan leader Hugo Chavez,s gratuitous comments that the USG was taking advantage of the humanitarian situation to occupy Haiti militarily.

EU Justice and Home Affairs (JHA) Informal Ministerial

5. (C) The Ambassador thanked the Minister for his invitation to DHS Secretary Napolitano to visit Toledo January 21-22 to discuss enhanced civil aviation security cooperation. The Ambassador thanked Rubalcaba for the excellent anti-organized crime and counter-narcotics relationships we enjoy in Spain. He noted the USG is interested in taking the information sharing to the next level, not only in counter-terrorism but also with respect to organized crime investigations. Rubalcaba said he looked forward to discussing further with Napolitano and the Ambassador JHA matters, both in Toledo and at the April 9-10 JHA Ministerial meeting that Attorney General Holder and Napolitano are slated to attend.

Guantanamo Detainees

5. (C) The Ambassador reflected positively on Spain,s commitment to take five detainees and urged that Spain accept the first tranche (two detainees) as soon as possible.

MADRID 00000049 002 OF 002

Rubalcaba said the Ministry of Interior is currently deciding where the detainees will live and is also evaluating the case files of additional detainees to be able to take a total of five. He said that because of political concerns Spain would have to delay a month receiving the Yemeni detainee, noting public concerns in the wake of the Christmas Day Detroit attempted terrorist incident. Spain would nonetheless proceed with the Palestinian and another detainee quickly, with the remaining three detainees being transferred once the GOS completed their evaluation of the case files. Ambassador said he wanted to be "clear and blunt" about USG expectations of Spain following through on its commitments, adding that this was an important opportunity for Spain to show it is a serious leader in the EU. Rubalcaba reiterated Spain,s commitment to help the USG, noting it had criticized the USG for opening the Guantanamo detention facility and now was on the hook to help the USG close it.

Al Qaida in the Islamic Maghreb

6. (C) The Ambassador expressed concern for the three aid workers who were kidnapped in Mauritania by AQIM November 29. He said that the USG wanted to continue close cooperation in the area, as there are terrorist and extremist threats on many fronts. Rubalcaba expressed appreciation for continuing USG intelligence support and cooperation. He said he had underscored to his many interlocutors in the U.S. during his recent visit there the importance of the Maghreb to Spain,s national security interests and Spain,s desire for improved cooperation in that region. In view of the weak states there, he hoped to reach an agreement on capacity-building during upcoming JHA meeting. He said there must be enhanced sharing of information. Rubalcaba noted that while Spanish and U.S. intelligence cooperation, based on shared values and interests, is very good among the various USG agencies -- CIA, DEA, FBI -- Spain wants it to be even better. On counter-terrorism cooperation, Rubalcaba said that Spain agrees with President Obama that the West needs to speak with one voice, and that being tolerant and firm are not incompatible when dealing with Islam and Muslim extremism. The Ambassador agreed, noting that the parallel tracks of engagement and incentives with pressure and sanctions vis--vis Iran was also the USG approach.

Training Security Forces in Afghanistan and Iraq

7. (C) The Ambassador thanked Rubalcaba for Spain,s pledge to send Civil Guard and/or National Police personnel to help train security forces in Afghanistan and Iraq as part of the NATO training missions in those countries. Rubalcaba said that he is awaiting the report of the assessment team that was sent to Iraq and expected to field 10-12 Civil Guard elements, adding that Iraq was more difficult politically for Spain than Afghanistan. He reiterated Spain,s commitment to send at least 40 police trainers to Afghanistan.

SOLOMONT

ID:	244979
Date:	2010-01-22 15:43:00
Origin:	<u>10MADRID67</u>
Source:	Embassy Madrid
Classification:	CONFIDENTIAL
Dunno:	
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C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000067

SIPDIS

FOR EUR/WE AND EEB/IPE, STATE PASS USTR FOR D.WEINER,
COMMERCE FOR 4212/D.CLAVERT

E.O. 12958: DECL: 01/21/2020
TAGS: PREL, KIPR, AF, IR, XM, SP
SUBJECT: AMBASSADOR SOLOMONT'S JANUARY 21, 2010, MEETING
WITH SPANISH OPPOSITION LEADER MARIANO RAJOY

MADRID 00000067 001.2 OF 002

Classified By: Ambassador Alan D. Solomont, Reasons 1.4(b)(d).

1. (C) Summary. The Ambassador called January 21, 2010, on opposition party leader Mariano Rajoy and Rajoy,s Chief of Cabinet, Jorge Moragas. They discussed Afghanistan, Iran, IPR, the Spanish economy, and Latin America. End summary.

Afghanistan

2. XXXXXXXXXXXXX

IPR

4. (C) The Ambassador described his strong commitment to helping U.S. business compete in Spain, noting that the IPR situation is a major concern, especially for the U.S. music and film industries. He noted MPAA head Dan Glickman called him the day before to register concerns about Spain. The Ambassador said that at a recent movie premiere in Madrid, Warner Brothers' executives reported sales of new release DVDs were down 80 percent. Rajoy, whose party has in recent weeks objected to a GOS legislative proposal that would authorize shutting down websites that promote piracy, said this is a great debate in Spain and there are diverse opinions, including a vocal community of internet users. He said the PP is asking for appropriate judicial safeguards for

shutting down websites and is working to find the appropriate balance between IPR protection and freedom of expression. He noted the issue is not only important economically but politically. Nevertheless, he assured the Ambassador that the PP wants to play a constructive role and promised to keep an eye on the issue.

XXXXXXXXXXXXXX

Comment

8. (C) XXXXXXXXXXXX Likewise, on IPR we took Rajoy's message to be that while the PP understands the need for Spain to do more, it is going to extract whatever political benefit it can from the debate over exactly what mechanism Spain uses to shut down pirating websites.

SOLOMONT

Reference ID	Created	Released	Classification	Origin
<u>10MADRID133</u>	2010-02-03 14:02	2010-12-03 21:09	CONFIDENTIAL	Embassy Madrid

VZCZCXRO5250
RR RUEHAG RUEHROV RUEHSL RUEHSR
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ZNY CCCCC ZZH
R 031451Z FEB 10
FM AMEMBASSY MADRID
TO RUEHC/SECSTATE WASHDC 1853
INFO RUCNMEM/EU MEMBER STATES COLLECTIVE
RUEHLA/AMCONSUL BARCELONA 4330
RHEHNSC/NSC WASHDC
C O N F I D E N T I A L SECTION 01 OF 02 MADRID 000133

SIPDIS

FOR P - U/S BURNS, ALSO FOR EUR - A/S GORDON

E.O. 12958 DECL: 02/04/2020
TAGS PREL, SP
SUBJECT: SPANISH REACTION TO ANNOUNCEMENT REGARDING U.S.-EU
SUMMIT

MADRID 00000133 001.2 OF 002
Classified By: Ambassador Alan D. Solomont, Reasons 1.4(b),(d).

¶1. (C) Summary. In the last 48 hours the Ambassador has spoken with Spanish National Security Advisor Leon, FM Moratinos, and President Zapatero regarding the announcement that President Obama will not attend a U.S.-EU Summit in Spain. Spanish disappointment -- both among senior government officials and in the media -- is profound. Nevertheless, the GOS is taking the high road, stressing the health of the U.S.-EU and U.S.-Spanish relationships. We are taking a similar approach privately and publicly, aggressively reaching out to media to urge that they not read into this decision some hidden and inaccurate message about U.S. policy. The Spanish still hope for a Presidential visit, and will probably raise that with Washington at every opportunity. End summary.

¶2. (C) It is important we all continue to reiterate a consistent message about what has and has not happened. There was never U.S. agreement to a summit. The GOS was told that on many occasions. The decision made this week has everything to do with the President's very busy agenda and nothing to do with the importance the U.S. attaches to Europe and Spain. The U.S. has no more important relationship than the one it enjoys with Europe, and Spain is an important and valued ally. The President traveled to Europe six times last year. He met twice with President Zapatero in recent months, will see him again at the National Prayer Breakfast this week, and will receive King Juan Carlos at the White House February 17. The Spanish press is covering the story heavily. Our message is being repeated in the media, although commentary is running heavily towards characterizing the decision as a slight to Europe and Spain.

¶3. (C) The Spanish reaction is colored by the hopes they had pinned on this summit. The domestic economic news has been uniformly bad for Zapatero for a long time. That is not likely to change in the near

future. Zapatero looked to the EU presidency as a chance to burnish Spain's international standing, especially as a leader within the EU. The summit with the U.S. -- the first visit of a U.S. President in eight years -- was to be the climax of Spain's presidency. Early on Spain proposed late May as the date and began working to convince U.S. officials of the value of a summit. Regrettably, and despite being told repeatedly that no dates were agreed, the GOS treated the summit as a fait accompli when talking to the media.

¶4. (C) The Spanish did take seriously U.S. injunctions that a summit needed concrete and worthwhile deliverables and began working on an agenda that would be meaningful to the U.S. In discussions with the Department of State and the NSC, the Spanish stressed some worthwhile topics such as data protection/information sharing, removing trade and regulatory barriers, climate change, and -- most recently as described to the Ambassador -- having Zapatero personally lead an effort to persuade other EU countries to accept more Guantanamo detainees. The Spanish did appear to have taken seriously their role as a transitional EU presidency, trying to find a balance with EU President Van Rompuy and High Representative Ashton, dividing up meetings, and agreeing on appropriate roles for both Van Rompuy and Zapatero in a proposed U.S.-EU Summit in Spain.

¶5. (C) By the time the new U.S. Ambassador arrived January 9, the GOS was clearly becoming nervous about the summit. In his first days, senior GOS officials raised the issue with the Ambassador, including Moratinos, Leon, Zapatero, and the King. In each instance, the Ambassador made clear that the USG had not yet agreed to a summit. His Spanish interlocutors made it equally clear that they placed great importance on having a summit.

¶6. (C) At this point, the Spanish do not feel betrayed, but they are deeply disappointed. Naturally they regret, as does everyone, that the bad news first appeared in the press. Despite that, the GOS is trying to put the best face on this situation. The Ambassador has explained personally to Leon, Moratinos and Zapatero that Spain remains an important and valued ally. In a February 2 conversation, Zapatero told the Ambassador he understands President Obama has a complicated agenda and that he traveled several times to Europe in the past year. Zapatero assured the Ambassador he understands the decision has nothing to do with U.S. feelings towards Spain or Europe. He said he hopes President Obama will find a convenient moment to visit Spain and suggested he would tell the President that when he sees him at the National Prayer Breakfast.

MADRID 00000133 002.2 OF 002

¶7. (C) Comment: Zapatero has taken a serious political blow at a time when he can ill afford it. Nevertheless, bilateral relations will survive intact. We expect Spain to follow through on its commitments to send more troops to Afghanistan, accept five Guantanamo detainees, and be helpful on Iran sanctions. The Spanish are still hopeful for a Presidential visit this year, perhaps in conjunction with the President's visit to Lisbon in November. In that regard, we have advised the Spanish not to create false expectations. We do believe such a visit would be useful in terms of strengthening relations with an important ally who has demonstrated an increasing willingness to support U.S. priorities. The use of Spanish military bases by our Navy and Air Force has long been of great value to us as is Spain's commitment in Afghanistan and its cooperation on CT, law enforcement, etc. Although Spanish leaders may voice their desire for a visit to senior USG officials, they should avoid making the same mistake twice

of speaking publicly about a visit that has not been committed to. End
comment. SOLOMONT

Reference ID	Created	Released	Classification	Origin
<u>10MADRID154</u>	2010-02-08 11:11	2010-12-01 21:09	SECRET//NOFORN	Embassy Madrid

VZCZCXRO8777

PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSL

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ZNY SSSSS ZZH

P 081100Z FEB 10

FM AMEMBASSY MADRID

TO RUEHC/SECSTATE WASHDC PRIORITY 1882

RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUEHKV/AMEMBASSY KYIV PRIORITY 0040

RUEHLO/AMEMBASSY LONDON PRIORITY 1100

RUEHSK/AMEMBASSY MINSK PRIORITY 0061

RUEHMO/AMEMBASSY MOSCOW PRIORITY 0991

RUEHSI/AMEMBASSY TBILISI PRIORITY 0064

RUEHLA/AMCONSUL BARCELONA PRIORITY 4339

RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

RUEAIIA/CIA WASHDC PRIORITY

RUCNFB/FBI WASHDC PRIORITY

RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY

RHMFSS/HQ USEUCOM VAIHINGEN GE PRIORITY

RUEILB/NCTC WASHINGTON DC PRIORITY

RUEKJCS/SECDEF WASHDC PRIORITY

RUEHMD/USDAO MADRID SP PRIORITY

S E C R E T SECTION 01 OF 05 MADRID 000154

NOFORN

SIPDIS

DEPARTMENT FOR EUR/WE (ALEX MCKNIGHT, STACIE ZERDECKI),
EUR/ERA (ALESSANDRO NARDI), INR/TNC (JENNIFER MCELVEEN,
STEPHEN WOROBEK), INL (ELIZABETH VERVILLE, SCOTT HARRIS), L
(KEN PROPP),

EMBASSY MOSCOW (THOMAS FIRESTONE)

DEPARTMENT PASS TO NSC (GREG GATJANIS)

DEPARTMENT PASS TO ODNI/NIC (JOHN REGAS, MAT BURROWS)

DEPARTMENT PASS TO FBI (BARRY M. BRAUN, KAREN GREENAWAY)

DEPARTMENT PASS TO DOJ (BRUCE SWARTZ, TOM OTT, BRUCE OHR,
LISA HOLTYN)

DEPARTMENT PASS TO TREASURY/OFFICE OF TERRORISM AND
FINANCIAL INTELLIGENCE (BOB WERNER)

EO 12958 DECL: 02/08/2035

TAGS KJUS, KHLs, PGOV, PREL, PTER, SP, PINS, KCOR, PINR,
XH, RS

SUBJECT: SPAIN DETAILS ITS STRATEGY TO COMBAT THE RUSSIAN
MAFIA

REF: A. MADRID 76 B. 09 MADRID 869 C. 09 MADRID 870 D. 09 MADRID
1003

MADRID 00000154 001.2 OF 005

Classified By: POLCOUNS William H. Duncan for reasons 1.4 (b) and (d)

¶1. (C) SUMMARY AND COMMENT: National Court Prosecutor Jose "Pepe"
Grinda Gonzalez on January 14 gave a detailed, frank assessment of the

activities and reach of organized crime (OC) in both Eurasia and Spain and Spain's strategy for how best to combat it in court. As he did so, he evaluated the levels of cooperation that Spain receives from numerous countries. Grinda presented his remarks on January 13 at the new US-Spain Counter-Terrorism and Organized Crime Experts Working Group meeting in Madrid (See Ref A). He provided a 17-page, English-language handout entitled, "The Organized Crime and the Russian Mafia," which he used as the basis for his remarks, which were more explicit than the document is. (NOTE: Post will send a copy of the handout to interested parties.) Grinda's comments are insightful and valuable, given his in-depth knowledge of the Eurasian mafia and his key role in Spain's pioneering efforts to bring Eurasian mafia leaders to justice. END SUMMARY AND COMMENT.

//Bio Info//

¶2. (S//NF) Grinda, a Special Prosecutor for Corruption and Organized Crime, in early December wrapped up his prosecution of the alleged OC network led by Zahkar Kalashov, the Georgian-born, Russian citizen who allegedly is a "vor v zakone," ("Thief in Law," the highest echelon of Russian OC leadership) and reportedly the most senior Russian mafia figure jailed outside Russia. The defendants were arrested as part of Operation Avispa (see Refs B and C). A verdict is expected by early February, according to Belen Suarez, Deputy Prosecutor for Corruption and Organized Crime and one of Grinda's superiors. Grinda is known to Post's Legat Office as a skilled and rigorous professional with deep subject matter expertise. He is forward-leaning in his cooperation with the USG and grateful for USG assistance. His work places him under considerable stress, which make him suspicious of penetration attempts by intelligence services and causes him to have heightened sensitivities regarding his physical security. Grinda also will be the prosecutor in the trial for those arrested in Operation Troika (See Refs B and C).

//Nomenclature//

¶3. (C) Grinda's was the first presentation at the January 13 meeting and his candor set the tone for an open exchange of ideas and information. He began by urging those present to speak frankly with each other in this closed door session. He said that what we are confronting is the "Russian mafia" even if the term "Eurasian mafia" is more socially acceptable and what the Russians certainly prefer. He acknowledged that the term Russian mafia can be a misnomer since these criminal groups sometimes involve Ukrainians, Georgians, Belarusians or Chechens. He nevertheless questioned the stigma surrounding the phrase "Russian mafia" and noted it is acceptable to say "Sicilian mafia."

¶4. (C//NF) Grinda stated that he considers Belarus, Chechnya and Russia to be virtual "mafia states" and said that Ukraine is going to be one. For each of those countries, he alleged, one cannot differentiate between the activities of the government and OC groups. //Identifying The Scope of The Threat the Russian Mafia Poses//

¶5. (C) Grinda suggested that there are two reasons to worry about the Russian mafia. First, it exercises "tremendous control" over certain strategic sectors of the global economy, such as aluminum. He made a passing remark that the USG has a strategic problem in that the Russian mafia is suspected of having a sizable investment in
XXXXXXXXXXXX 6. (S//NF) The second reason is the unanswered question

regarding the extent to which Russian PM Putin is implicated in the Russian mafia and whether he controls the mafia's actions. Grinda cited a "thesis" by Alexander Litvinenko, the former Russian intelligence official who worked on OC issues before he died in late 2006 in London from poisoning under mysterious circumstances, that the Russian intelligence and security services - Grinda cited the Federal Security Service (FSB), the Foreign Intelligence Service (SVR), and military intelligence (GRU) - control OC in Russia. Grinda stated that he believes this thesis is accurate. (COMMENT: See Ref B on a reported meeting between Litvinenko and the Spanish security services shortly before his death.) Grinda said that he believes the FSB is "absorbing" the Russian mafia but they can also "eliminate" them in two ways: by killing OC leaders who do not do what the security services want them to do or by putting them behind bars to eliminate them as a competitor for influence. The crimelords can also be put in jail for their own protection.

¶7. (S//NF) Grinda said that according to information he has received from intelligence services, witnesses and phone taps, certain political parties in Russia operate "hand in hand" with OC. For example, he argued that the Liberal Democratic Party (LDP) was created by the KGB and its successor, the SVR, and is home to many serious criminals. Grinda further alleged that there are proven ties between the Russian political parties, organized crime and arms trafficking. Without elaborating, he cited the strange case of the "Arctic Sea" ship in mid-2009 as "a clear example" of arms trafficking.

¶8. (S//NF) Grinda said what he has read from 10-12 years' worth of investigations on OC has led him to believe that whereas terrorists aim to substitute the essence of the state itself, OC seeks to be a complement to state structures. He summarized his views by asserting that the GOR's strategy is
MADRID 00000154 003.2 OF 005
to use OC groups to do whatever the GOR cannot acceptably do as a government. As an example, he cited Kalashov, whom he said worked for Russian military intelligence to sell weapons to the Kurds to destabilize Turkey. Grinda claimed that the GOR takes the relationship with OC leaders even further by granting them the privileges of politics, in order to grant them immunity from racketeering charges.

//The Spanish Strategy to Combat the Russian Mafia: Follow the Money//

¶9. (C) Grinda traced the history of the Russian mafia in Spain to the mid-1990s, when several vory v zakone began to enter Spain. He said that since 2004 Spanish prosecutors have created a formal strategy to "behead" the Russian mafia in Spain. He explained that this has been a top-down strategy done through extensive investigations of criminal actions by these vory v zakone living in Spain. These individuals have no known jobs and unknown sources of income, yet they live in large mansions. Spanish prosecutors have concluded that money-laundering is likely involved and the challenge has been how to prove this. Grinda says that Spain's longtime experience in fighting drug traffickers' use of money laundering has proven valuable in this regard.

¶10. (C) Grinda says the money-laundering investigations have a two-fold objective: to prevent the targets from profiting from the original crime and to prevent the targets from gaining enough clout to enjoy economic influence, which Grinda suggested sooner or later always reaches political power. This is why Spain's Attorney General has grouped together the prosecutors' office for anti-corruption and organized crime. As part of this strategy to prevent mafiosos from

enjoying economic influence, Spain's strategy includes the seizure of businesses, companies, furniture and other assets.

¶11. (C) Grinda also addressed the challenges of combating OC when it enjoys political, economic, social and - especially - legal protection. Grinda applauded a document provided by the U.S. delegation which addressed the important role the media can play in warning the public of OC's activities and the threat that OC poses. The media can create an environment in which politicians would be reluctant to be friends with and do favors for mafia leaders, whom Grinda argued need to be seen as shady figures to be feared. Regarding legal protection, Grinda stated that a key factor in a government's ability to combat OC depends on the extent to which the country's best attorneys and law firms represent the mafia. In this regard, he asked rhetorically, "Why is Cuatrecasas constantly defending Russian mafia members?" (COMMENT: Cuatrecasas is one of Spain's leading law firms. Its website, available in English, is www.cuatrecasas.com.)

¶12. (C) Grinda stated that OC begins to accumulate both economic and political power when it begins to bid for contract tenders on civil works and infrastructure projects.

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He noted, however, that the vory v zakone do not engage in racketeering and murder, preferring to distance themselves from this activity and focus on crimes that are further up in the hierarchy, such as corruption of high-level ministers. The level of power that vory v zakone operate at is indicated by their level of interaction with these public servants, because cabinet-level officials do not spend time with unimportant people and cannot be tempted by those who do not have something important to offer. Grinda commented that Gennadios Petrov, the chief target of Spain's Operation Troika (See Refs B and C), was engaged in a "dangerously close" level of contact with senior Russian officials. COMMENT: In a surprise move, Spanish judges granted bail to Petrov, who is out on house arrest as of January 31, 2010. END COMMENT.

//Thoughts on International Collaboration//

¶13. (S//NF) Grinda addressed the collaboration Spain receives from other countries regarding the Russian mafia. Early in his remarks, he thanked the U.S. delegation for Washington's assistance to his office on corruption and OC issues. He said that it is important to have the DOJ, FBI, and Post's Legat office as collaborating partners and assessed that he and his U.S. interlocutors collaborate in "a very efficient manner." He added that the close level of US-GOS cooperation on OC issues is known in some circles and has led some to say that he and Spain are "the executing hand of the USG regarding the Russian mafia." He said that description is fine by him.

¶14. (S//NF) Grinda said that the Spanish National Police (SNP), the Civil Guard (GC), Spain's financial intelligence unit (SEPBLAC), and the surveillance division of the Customs Police together have compiled a solid portfolio of information on the Russian mafia in Spain. He added that Germany, Switzerland, Austria, Belgium and the USG have been valuable partners in supplementing this information to further flesh out Grinda's office's understanding of the Russian mafia's activities. He added that Spain is beginning to collaborate with France on these issues, but singled out the United Kingdom for its lack of cooperation. XXXXXXXXXXXX

¶15. (S//NF) Grinda described OC as "very powerful" in Georgia and claimed that the intertwined ties there between the government and OC began under former President Shevardnadze, when he alleges a paramilitary group served as a de facto shadow presidency. Although Grinda acknowledged improvements under current President Saakashvili, he said that there are still "limitations" in Georgia's efforts to combat OC. Citing his personal experience in trying to secure Georgian assistance in the prosecution of Kalashov's OC network in

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Spain (See upcoming septel on the Kalashov trial), Grinda said that he feels "completely abandoned" and "betrayed" by Georgia and the explanations that he has received from Georgia regarding its lack of cooperation are "more pathetic than the betrayal itself."

¶16. (S//NF) To illustrate his thoughts on the level of cooperation Spain receives from Russia, Grinda reviewed Spain's efforts to arrest Tariel Oniani as part of Operation Avispa. (See Refs B, C and D.) In June 2005, Georgian-born Oniani fled to Russia hours before he was to be arrested in Spain and Russia gave him citizenship in April 2006, despite the fact that he had fled Spanish justice. Grinda alleged that the granting of citizenship was neither "innocent" nor "something done for free," and was an example of Russia putting crimelords to work on behalf of its interests. Grinda alleged that the Russian Ministry of Interior and the FSB are closely protecting Oniani in Russia (even in prison). Following Oniani's arrest in Moscow in June 2009, Spain requested his extradition for charges stemming from Operation Avispa, to which Russia replied that Oniani's Russian citizenship prevented him from being extradited. Grinda said that Russia "always tells Spain that it will take away Oniani's citizenship, but it never does." Grinda said that, from his experience, "A virtue of the Russian government is that it will always say and do the same thing: nothing."

¶17. (U) The U.S. delegation to US-Spain Counter-Terrorism and Organized Crime Experts Working Group cleared this cable. SOLOMONT