



EMBASSY OF COLOMBIA
Washington, DC

E- 1239

July 12, 2005

The Honorable
US House of Representatives
Washington, D.C.
Fax: (202)

Dear Representative,

I wanted to take this opportunity to provide with you information about the Justice and Peace Law recently passed by the Colombian Congress, which provides a legal framework for the Government of Colombia to continue its efforts to demobilize members of terrorist organizations. Because of your interest and support of Colombia-U.S. relations over the past several years, I want to ensure you have an understanding of both the provisions of this law and the environment in which it was debated and will now be implemented.

As you know, Colombians have lived with violence from guerrilla and paramilitary organizations for more than 40 years. Previous efforts by former governments in Colombia to negotiate an end to the violence with the three guerrilla and paramilitary forces that operate in our country have failed. As a result, all Colombians live under a long-standing threat of terrorism unseen anywhere in the world, and they are crying out for peace.

Over the past three years, the Uribe government has strengthened the state's ability to go after the terrorists. As a result, homicides are down 40%, kidnappings have been reduced by 70%, and terrorist attacks have declined substantially. More than 12,000 individual members of these terrorist groups have already disarmed and demobilized. Support for Plan Colombia by the United States Congress has contributed significantly to these results. We have consulted regularly with the U.S. Congress on these efforts and many Members have had the opportunity to visit Colombia to see first hand the progress we are making.

But as the Uribe government has sought to improve security for Colombians, it also held out an olive branch to disarm and demobilize terrorist groups. Colombians have long recognized peace can be achieved through political solutions. Previous governments demobilized guerrilla organizations by negotiating pardons and amnesty, in exchange for combatants laying down their arms and rejoining civil society.

However, because demobilization of the AUC, FARC and ELN will occur on a scale never before attempted in Colombia, and because this peace process is so critical to the future security and well-being of the nation, the Uribe government sought a legal framework for peace talks. For nearly two years, the Colombian Congress has intensely debated procedures and conditions of

this peace process. Every part of Colombian society and many in the international community, including the United States, actively participated in this democratic process. The process was open, pluralistic and transparent. On June 22, the Congress passed its law.

At the core of demobilization is an effort by both the Uribe government and the Colombian Congress to find a balance between peace and justice. This means a law that dismantles organizations which have plagued the country for 40 years, thus ensuring the future security of Colombian citizens, while at the same time guaranteeing a level of punishment and reparation to redress the crimes and human rights violations they have committed.

The following are key provisions of the law:

- Combatants will come forward, either as individuals or groups, identify themselves, and admit to past crimes.
- Any crime the individual intentionally does not confess to can be investigated and tried by ordinary courts, with no benefits from the law and stiffer prison sentences if found guilty.
- Combatants must turn in weapons, release kidnap victims and identify and hand over illegally-gained assets.
- If they fulfill all these conditions, they become eligible for a reduced sentence of five to eight years for crimes committed, with no possibility of further reductions in time served.
- The law does not grant amnesty for serious crimes committed, nor does it provide a statute of limitations or any other legal benefits for crimes not confessed.
- No drug-traffickers can receive legal benefits under the law. The government will continue to fully investigate and prosecute narco-trafficking activities.
- The question of extradition is not addressed in the law, preserving the Colombian government's discretionary authority to comply with extradition requests from other countries. The Uribe government has used extradition as a powerful tool against drug trafficking, sending 270 suspects to the United States over the past three years – more than any other country in the world. Colombia's extradition policy has never been subject to negotiation with illegal armed groups and will remain unaltered.
- The rights of victims are fully guaranteed. The law establishes new institutions to implement key aspects of the peace process, such as a National Reparation and Reconciliation Commission, which will be led by Colombia's Vice President and will include representatives of the victims. In addition it creates a Fund for the Reparation of Victims and Regional Commissions for the Restitution of Property.

- The law does not affect the application of the asset forfeiture legislation in force, which to date has allowed the State to recover 5,042 illegal assets.

The law establishes a legal structure that seeks to achieve several goals simultaneously. It will identify thousands of individual combatants, most of whom are today unknown to authorities, and bring them to justice. The government will be able to, for the first time, monitor their actions to ensure they do not return to a life of violence. It also establishes a structure to identify and distribute illegal assets of ex-terrorists to their victims, which will be an important component of national reconciliation in our society.

There are concerns the law does not go far enough to punish combatants with long prison sentences. This was the fundamental issue legislators had to address – how to strike a balance between protecting people from future violence and terror with the desire to punish people who have committed crimes, in a society where almost everyone uses a different yardstick to measure that balance. In the law, ex-combatants who confess and comply fully with the other requirements get five to eight years of detention (which is almost as much as the five to ten years proposed in the principal opposition draft). There is no reduction of sentence or any other benefit for crimes intentionally concealed, so they could get up to 40 years for any crime they don't confess.

The Colombian Congress determined that if it set the bar too high in terms of punishment and other prerequisites for combatants to enter the peace process, they would not come forward. They would simply continue to wage war against our society. This is the only life they know. Through this law, the government is providing a "carrot" to thousands of AUC members to come forward and participate in the peace process. Those who do must meet all the conditions set forth in the law, and will be watched closely by authorities to ensure they do not return to violence. Those who do not accept the carrot will face the "stick" of justice, on terms much harsher.

The law is far from perfect and because we are seeking peace and justice simultaneously, it is inevitable neither cause will be served perfectly. The goal is to advance peace – that is, to ensure that thousands of illegal combatants no longer threaten our society with violence – and achieve as much justice as possible, with as little leniency as is necessary. In comparison to other peace processes around the world and every previous peace process in our country's history, Colombia is applying a higher standard of justice by requiring full confessions of violations, and providing a level of punishment, before any legal benefits can be bestowed.

The critical task for the Uribe administration now is to effectively move the peace process forward. The new law puts in place a workable peace process; now we begin the difficult task of making this process work for peace for all Colombians. This will require a significant commitment of resources, personnel and new institutions by the government, as well as continued national resolve by the Colombian people.

But for the first time in a generation, a Colombian government is today negotiating from a position of strength. That alone is a significant achievement in this long conflict. President Uribe

should now be given an opportunity to produce real results for Colombians. The Justice and Peace law is not perfect, and as frequently takes place in legislative bodies, it is a product of political compromise. But it is tougher – and will provide greater justice – than any previous demobilization effort in our country's history.

In moving forward, we look to the United States and the international community for continued support of our peace process.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'L' followed by a smaller 'A' and 'M'.

Luis Alberto Moreno
Colombian Ambassador the United States