

Tougher Challenges Ahead for Colombia's Uribe

I. OVERVIEW

President Alvaro Uribe was overwhelmingly reelected in May 2006, two months after parties supporting him won large majorities in the Congress. The armed forces are stronger than they have ever been, and U.S. aid appears relatively secure. As he begins his second four-year term, Uribe seems to be in a stronger position to tackle Colombia's long-standing problems: drug trafficking, the internal conflict, continued lack of security and poverty in rural areas, corruption, and social inequality. But appearances may be deceiving. His governing coalition is fractious, his popularity vulnerable to what a still powerful insurgency chooses to do. He has yet to define a comprehensive second-term strategy for peace and development that addresses these issues and puts a priority on bringing rural Colombia into the political, economic and social mainstream.

In response to public pressure, Uribe has been speaking about his intention to pursue peace negotiations with the country's two main insurgencies but security, an area in which he achieved much during his first term, remains his top priority. As defined in the "Democratic Security Policy" (DSP) his first administration implemented, it is still the main reason for an approval rating around 70 per cent but it could also prove to be his Achilles Heel. A return of the conflict to the cities would weaken his popularity and mandate. That scenario is realistic as long as the Revolutionary Armed Forces of Colombia (FARC) dominate large swathes of the countryside and paramilitaries, whether or not formally demobilised, continue to control criminal structures and use intimidation and violence in local communities even if they no longer wear uniforms.

The security policy has failed to weaken the rebels enough to force them to the negotiating table, and a military victory remains apparently unachievable. Part of the reason is the failure of the counter-drug policy to have any sustained impact on cocaine exports and thus on cash flows to the armed groups. Drug revenues not only finance the FARC and entice demobilised paramilitary groups to organise new offshoots, they also corrupt the military. A series of scandals has hit the security forces, and corruption, abuse of human rights and irregularities have undermined their credibility and professionalism.

The FARC has been forced to retreat from large-unit movement to a more traditional guerrilla war but the movement is still strong. Both the government and the insurgents are showing some flexibility about a possible hostages-for-prisoners swap, which could eventually lead to full peace negotiations. However, their preconditions are far apart. Talks that the government has been holding in Cuba with the smaller and weaker National Liberation Army (ELN) are more likely to produce a true peace process sooner.

The demobilisation of more than 31,600 paramilitaries of the United Self-Defence Forces of Colombia (AUC) has removed many illegal armed units from the battlefield but the Justice and Peace Law (JPL), proposed by the Uribe government to entice them into surrendering, has been condemned by human rights groups and the UN High Commissioner for Human Rights (UNHCHR). The Constitutional Court ruled that some sections violated both Colombian basic law and international legal norms, and serious questions remain about its implementation, the scale of reparations to victims and the functioning of the National Commission for Reparation and Reconciliation (NCCR). The government's proposed regulations are being criticised for offering benefits to the paramilitaries that the Court had ruled unacceptable. How successful the attorney general is in identifying AUC crimes, assets and victims, and the NCCR is in protecting victims' rights, will determine whether any of the wounds of more than four decades of violence begin to heal.

Many questions await answers in the second term, including whether the government will:

- ❑ take a more supportive attitude toward the Constitutional Court ruling on the JPL by withdrawing regulations that conflict with that decision, fund many more attorneys and provide other resources to the attorney general for implementing the law, and require that all who seek to obtain reduced sentences give full state's evidence on crimes, assets and victims if they are to obtain reduced sentences;
- ❑ respond vigorously through law enforcement and security agencies against rearmed paramilitary groups and paramilitary leaders who leave the detention zones, making their capture a priority equal to fighting the FARC;

- ❑ show flexibility in negotiations with the ELN and seek advice from the observer governments;
- ❑ rededicate efforts to achieve a hostages-for-prisoners exchange with the FARC as the first step in a long-term strategy to negotiate an end to the insurgency; and
- ❑ demonstrate alternatives to FARC rhetoric and drug traffickers' blandishments by announcing and funding a national rural governance initiative to bring the rule of law, state social services and economic investment to the countryside.

If Uribe is to balance security with a social agenda, however, he will have to find and dedicate substantial resources beyond donor funds, including by increasing tax revenues, perhaps by repeating the 1.2 per cent "war tax" he imposed in his first year in office on the wealthiest Colombians. (This time it might be called a "peace tax" and divided between security expenditures, rural investment and the JPL.) He has struggled in the past with an often recalcitrant Congress, but his electoral triumphs and the reformed party system that has resulted from those successes and changes in the legislative framework mean he will be expected to carry out more of his initiatives than he could in the first term. If he cannot, the blame will fall directly on him.

II. POLICY CONTINUITY OR ADJUSTMENT?

A. SECURITY POLICY

1. First term successes

President Uribe's popularity is largely based on his success in improving security, especially in the major urban areas.¹ Historically, presidents restricted to a single four-year term tended to set short-term counter-insurgency strategies. Uribe's Democratic Security Policy, published in June 2003, however, set out a long term project to re-establish (or in many areas establish for the first time) the presence of the state throughout the national territory. It identified as primary threats the insurgency, which it labelled "terrorism", drug trafficking, money laundering, arms trafficking, kidnapping and extortion, and homicides, and it set out strategic objectives and actions.

¹ For analysis of the 2006 Congressional and presidential elections, see Crisis Group Latin America Report N°17, *Uribe's Re-election: Can the EU Help Colombia Develop a More Balanced Peace Strategy?*, 8 June 2006.

The FARC were the focus of military operations under "Plan Patriota",² whose first major operation, Operation Libertad in 2003, was launched in Cundinamarca, the most developed and urbanised of Colombia's departments (and whose capital is Bogotá). It was highly successful, pushing the insurgents back from Bogotá, dismantling much of their kidnapping, extortion and military networks in the area, and killing a senior commander, Marco Aurelio Buendía.³

The aim of putting police in all 1,098 municipalities of the country was achieved in 2004, with joint police-military operations conducted in the 168 municipalities from which the security forces had been driven.⁴ A form of national guard, "Soldiers of my Town", was established, which now has 598 platoons totalling 21,528 soldiers. Its role is to help the security forces consolidate territorial control and free combat troops from much patrolling and other routine tasks. It has had the secondary effect of making the local population more likely to back government forces since it now shares local security responsibility. The increased police presence has not yet been followed up with a more comprehensive rural development program.

Increasing the number of High Mountain Battalions, a project begun under President Andres Pastrana (1998-2002), from one to seven has also been effective. These are stationed at key passes in the Andes, where they seek to cut guerrilla corridors and dislodge the rebels from their strongholds.

Funded and to a great extent planned by Washington under Plan Colombia,⁵ the war on drugs has intensified

² During President Andrés Pastrana's term (1998-2002), the military began a build-up of its combat forces with U.S. funds and training in the framework of "Plan Colombia" and "Plan 10,000". This aimed at shifting from a garrison-based force to one with greater mobility to confront the FARC. "Plan Patriota" has involved placing all branches under joint regional command structures.

³ According to the FARC's strategic concept, the war would have several stages before the final offensive to take power. From 1964 to 1994, it conducted a typical guerrilla struggle; from 1994 to 1998, it pursued a "war of movement" to control the eastern cordillera and block Bogotá; the last phase before the final offensive was to be a "war of positions", involving control of entire regions and departments. However, due to setbacks, the FARC has had to return to the guerrilla phase. Eduardo Pizarro, "Las FARC: ¿repliegue estratégico, debilitamiento o punto de inflexión?", in "Nuestra guerra sin nombre: Transformaciones del conflicto en Colombia", Instituto de Estudios Políticos y Relaciones Internacionales (IEPRI), 2006, pp. 195-201.

⁴ New bunker-style police stations were built in these areas, designed to resist attacks until reinforcements arrive.

⁵ "Plan Colombia", a \$10.65 billion five-year package, 65-per cent Colombia-funded, was conceived in 2000 by the

on several fronts: spraying and manual eradication of drug crops, improvement of interdiction and dismantling of trafficking groups. The Uribe administration has extradited some 300 traffickers to face trial in the U.S., far more than its predecessors combined.⁶ In 2002, the U.S. Congress allowed Plan Colombia funding to be applied to the fight against the illegal armed groups, all of which are on the U.S. list of foreign terrorist organisations.

Murders dropped from 28,837 in 2002, to 18,111 in 2005. During the same period, massacres⁷ fell from 680 to 48 and kidnappings from 2,986 to 800.⁸ Nevertheless, the UN High Commissioner for Human Rights (UNHCHR) continues to express concern about possible under-reporting of human rights violations attributed to government security forces,⁹ and there are areas where violence may have increased, such as instances of sexual violence against women and girls perpetrated by government agents.¹⁰ The International Committee of the Red Cross (ICRC) reported that forced "disappearances" rose in 2005.¹¹ To reduce the human rights violations, UNHCHR recommended that the government adopt a gender-sensitive strategy.¹²

administrations of Andrés Pastrana and Bill Clinton to combat illicit crops and drug trafficking. Over 57 per cent of the budget was used to combat illegal crops and organised crime.

⁶ "Servicio de Noticias del Estado (SNE)", 8 February 2006.

⁷ The government definition of a massacre is the murder of more than three people at the same time and same place.

⁸ Observatorio de Derechos Humanos, Vicepresidencia de la República de Colombia. See <http://www.derechoshumanos.gov.co>. These statistics are collated by the government and at times are disputed.

⁹ While the UNHCHR indicates that human rights violations are not the result of deliberate government policy, it also says "the situation could not be corrected owing partly to the lack of full recognition of the problem by the Government and partly to the lack of appropriate action by the authorities. As a result some of these violations have become routine practice". "Report of the UNHCHR on the situation of human rights in Colombia 2005", UNHCHR, 16 May 2006, p. 9. The Indigenous National Organisation of Colombia (ONIC) stated recently that indigenous peoples remain very vulnerable: up to 9 August, there were eighteen assassinations, 28 disappearances, two deaths by anti-personnel mines, 279 irregularly detentions, 10,800 menaces, twelve kidnappings and 75 woundings in 2006; 5,731 people had to abandon their ancestral lands. Helda Martínez, "Comunidades ponen el dedo en la llaga", 29 September 2006, at <http://www.onic.org.co>.

¹⁰ "Report of the UNHCHR", op. cit., p. 12.

¹¹ "Colombia: humanitarian situation remains of concern", International Committee of the Red Cross (ICRC), 1 February 2006, at <http://www.icrc.org>. ICRC reported 317 forced disappearances in 2005, up 13.6 per cent from 2004. *El Tiempo*, 29 March 2006.

¹² "Report of the UNHCHR", op. cit., p. 29.

2. Limits to the policy at the start of the second term

While the record is mostly positive, the initiative in the war on drugs has been lost. Recent studies show that the area of illicit crops increased from 80,000 hectares in 2004 to 86,000 in 2005, despite the spraying of 138,780 hectares and manual uprooting of such crops in 31,285 hectares in 2005.¹³ Cultivation has spread virtually nation-wide, with more communities affected than ever before. The United Nations Office on Drugs and Crime (UNODC) aerial survey shows that illicit crops continue to proliferate in regions that have been sprayed for years,¹⁴ and coca growers have reduced the size of their fields to present more difficult targets.¹⁵ The result has been the atomisation of what at the end of the 1990s were industrial-sized fields of up to 40 hectares but the smaller fields and more intensive cultivation with the use of fertilisers have increased the yield per hectare considerably.¹⁶ Colombia is now the single largest supplier of heroin to the U.S. and it is delivering a product of unsurpassed purity.¹⁷ The expenditure of \$4.7 billion in U.S. funds since 2000 has brought little return on North American streets, where the wholesale price and availability of both cocaine and heroin on U.S. streets appears basically unchanged.¹⁸

After four years, the DSP has given the Colombian military more combat capacity, better training and logistics. The FARC has been forced to abandon its territorial expansion strategy of the 1990s and is no longer able to concentrate

¹³ Aerial spraying of coca has exceeded 130,000 hectares since 2002. "Colombia Coca Survey 2005", UNODC, June 2006, p. 10.

¹⁴ The departments of Meta, Nariño, Putumayo, Guaviare, Vichada and Antioquia y Caquetá, account for 78 per cent of coca leaf production. Ibid, p. 7.

¹⁵ The coca farmers and the warring factions that encourage them have learned that the spray planes need a target of some three hectares. "The average coca field size decreased from 1.3 hectares in 2004 to 1.13 hectares in 2005 (-13 per cent)". "Colombia Coca Survey 2005", op. cit., p. 11.

¹⁶ According to new methodology used in 2005, UNODC estimated cocaine yield at 7.7 kg/hectare. The U.S. estimated it at 4.7 kg/hectare; the Colombian government at 5.8 kg/hectare in 2003. Ibid, p. 68.

¹⁷ According to the most recent UNODC report, Colombia produces 2.5 metric tons of heroin annually. Colombian authorities reported that poppy cultivation dropped from 4,000 hectares in 2004 to 2,000 in 2005, but opium latex and heroin prices have increased as a consequence. Ibid, pp. 50-51, 70, 76. However, a senior official in charge of measuring illegal crops told Crisis Group that permanent cloud coverage in the mountain ranges where poppies are cultivated often prevents accurate assessments. Crisis Group interview, Bogotá, 4 August 2006.

¹⁸ Crisis Group interview, State Department official, Washington, July 2006; see also <http://www.dea.gov/concern/18862/cocaine.htm>.

large forces. However, it is an organisation that learns from experience and has already adapted to the new, more difficult environment. Its forces have become more mobile, trying only to control strategic corridors and assure control of illicit crops.¹⁹ While the FARC has gone underground in the major cities, it still has significant presence in some regional towns and has demonstrated the capacity to attack frequently from its jungle and mountain hideaways, in what has become more a war of attrition using anti-personnel landmines,²⁰ snipers and small ambushes.

Plan Patriota stalled in 2005. The year before, it was thought that the template of Operation Liberty in Cundinamarca could be applied to the guerrillas' traditional stronghold in the southern Amazonian department of Caquetá. Due to the lack of infrastructure (and paramilitary presence) and the dense tropical jungle, however, strategic failure followed some tactical successes in the first six months.²¹ The FARC reacted quickly, withdrawing the main body of its troops, breaking up the principal camps and leaving small units that specialised in booby traps, landmines and sniping. The army's best mobile forces, including much of its helicopter fleet, was left chasing these groups through the jungle, taking casualties also from the tropical diseases like leishmaniasis and malaria. Morale fell as did operational effectiveness.

Reluctant to withdraw from the area or reduce troops for fear of having Plan Patriota formally labelled a failure,²² Uribe is seeking approval for a second special tax on wealth to fund a new task force able to mount a similar operation in another part of the country.²³ But defence spending is already at record levels and the planned expansion may not be sustainable,²⁴ even though it would still leave the defence budget relatively low as a percentage of the

overall budget or GDP for a country engaged in an internal conflict. From 2003 to 2006, the government has devoted \$3.917 billion to the DSP.²⁵ In 2002, a one-time 1.2 per cent special wealth tax levied against 1 per cent of the population brought in \$1.083 billion, which has been applied to the defence budget deficit through this year.²⁶ The tax was largely accepted by a citizenry fearful for its security in the cities and on major highways. While continuing it in each year of Uribe's first term would have been politically difficult, it would have permitted much greater investment in both defence and rural areas crucial to poverty reduction and governance.

With Plan Colombia officially over, the high level of U.S. aid could well decline somewhat after FY2007. So far, Congressional support has not faltered and there is bi-partisan backing for helping Colombia against the FARC. But scepticism about military aid has been strong since 2000, and the lack of progress in the war on drugs is raising questions.²⁷ Security force scandals, including a lack of results from investigations into involvement of the armed forces in human rights violations and links to drug trafficking, will bring new pressures. Any sign that the government was not carrying out the Constitutional Court ruling with respect to observing international law in the process of demobilising paramilitaries would at the least produce a call for review of the drug policy and of whether conditions in U.S. law are being met respecting human rights and dismantling the paramilitaries. There might also be greater support for more balance in U.S. aid between military (near 80 percent in recent years) and governance and economic development projects.

There has been no indication of major change to Uribe's security strategy in the second term. In August 2006 the military high command was reshuffled, with General

¹⁹ Crisis Group interview, Bogotá, 18 August 2006.

²⁰ On 3 August 2006, following the death of six eradicators in a FARC minefield, President Uribe announced the end of the coca crop manual eradication offensive and the beginning of a large aerial spraying campaign in Macarena National Park (Meta).

²¹ These included dismantling the FARC drug industry in the lower Caguán River, cutting rebel movement corridors and isolating the guerrillas from urban centres.

²² Crisis Group interviews, Bogotá, 21-22 July 2006.

²³ The first Uribe administration raised a tax on wealth (known as the "war tax") to increase the number of police and soldiers and to renew military equipment. "Proponen nuevo 'impuesto de guerra'", Associated Press, 22 September 2006

²⁴ Defence budget: \$4.583 billion in 2004; \$4.933 billion in 2005. Crisis Group interviews, Bogotá, 18 August 2006 and 6 September 2006. The proportion of the defence budget in terms of GDP has increased from 2.6 per cent in 2000 to 3.3 per cent in 2004 and 2005. "Sostenibilidad económica de la política de seguridad democrática", Ministry of Finance, February 2005, at <http://www.minhacienda.gov.co>.

²⁵ "Informe al Congreso 2006", DNP, p. 27. 42 per cent was devoted to territorial control and measures against drugs and organised crime.

²⁶ Executive decree 1838 (2002) established the tax on wealth. Over the past four years, the money it raised helped finance the defence budget deficit of 2002 (20 per cent); equipment and materiel purchases (28 per cent); the "shock" plans of 2003 and 2004 (36 per cent and 12 per cent respectively); and other expenses (4 per cent) such as the reinsertion of demobilised guerrilla and paramilitary fighters, payment of informants and protection of people at high risk. "Informe al Congreso 2006", DNP, p. 29. The tax was applied to an estimated 100,000 enterprises and 300,000 citizens. *El Tiempo*, 13 August 2002.

²⁷ For all amendments proposing cuts or limits on military aid to Colombia since 2000, the average of representatives who have voted in favour is 43.8 per cent. On 9 June 2006, an amendment seeking to transfer \$30 million in military aid to Colombia to refugee programs worldwide was defeated. See <http://www.ciponline.org>.

Fredy Padilla replacing Carlos Ospina as chief of the armed forces and Mario Montoya staying as chief of the army.²⁸ It is likely that with these two generals Uribe wants to repeat the partnership of Generals Fernando Tapias and Jorge Mora inherited from the Pastrana administration. The first is a savvy political operator, the second a hands-on, soldier's soldier.

Perhaps the most notable change was the appointment of Juan Manuel Santos, former head of the pro-Uribe U party (Social Party of National Unity), as minister of defence. Uribe had essentially acted as his own defence minister during his first term but Santos is a political heavyweight and probable future presidential candidate. It remains to be seen if he will steer the military into a new strategy and wrench some independence of action from Uribe. He has had his hands full defending the institution in the face of a series of scandals.²⁹ A reform announced on 10 October appears to be his first effort to put his own stamp on the military and head off growing criticism.³⁰

A DSP cornerstone has been the extensive use of informants and the payments to the general public for timely intelligence. This, combined with great pressure to deliver results,³¹ has led to distortions, as some military personnel have acted outside the law.³² There is abundant evidence in Antioquia department that body counts of enemy casualties (*positivos*, in the army's jargon) used to get promotions and prestige have involved human rights violations, such as extra-judicial executions of insurgents described as "killed in combat".³³ At least four army officers were implicated in the explosion of a car bomb on 31 July and several seizures of explosives in Bogotá that were presented to the media as part of FARC plans to destabilise the

Uribe inauguration.³⁴ The latter incident resembled the assassination attempt on Uribe that the Security Administrative Department (DAS, secret service) director in Barranquilla claimed to have thwarted in June 2005.

Some cases of blatant corruption have badly tarnished the armed forces' image and caused friction between the police and the army. The massacre of ten counter-drug police officers and a civilian informant by an army patrol in Jamundí (24 km. from Cali) on 22 May and the execution of six men by a military anti-kidnapping unit near Barranquilla on 14 August indicate the links of some officers to drug-trafficking and organised crime.³⁵ A convincing response by the government and the justice system is essential to preserve the integrity of the armed forces and maintain international support.³⁶ The failure to hold accountable those responsible for abuses has been an ongoing problem for the security services.

The rapid expansion promoted by the DSP has created problems with respect to discipline and command and control. There is a shortage of quality non-commissioned officers and mid-ranking officers to command the 19,000 additional police officers (from 104,000 in 2002 to 123,000 in 2005) and 75,000 additional military personnel (from 172,000 in 2002 to 247,000 in 2005) operating in 91 new police and military units, in addition to the new police elements in the 168 municipalities regained from the insurgents.³⁷

Uribe will be hard pressed to show continuing security successes. Expectations have been raised so high that resumption of urban attacks by the guerrillas could severely hurt his standing and shatter the belief Colombia has become much safer. DSP implementation has lost momentum in some areas. The next stage has to involve taking on the rebels in their jungle and mountain strongholds. This will be the hardest challenge yet, one that will stretch available resources and require innovation and flexibility in strategy and tactics that have not yet been demonstrated.

²⁸ There were other changes in the air force, navy and police.

²⁹ See below.

³⁰ "Gobierno presenta cambios estructurales en fuerza pública", SNE, 10 October 2006.

³¹ President Uribe has dismissed some 30 generals, most for lack of results.

³² Crisis Group interview, Bogotá, 16 August 2006.

³³ Four non-commissioned officers and thirteen soldiers were arrested after the killings over fifteen months of 30 peasants in Antioquia, who were disguised as guerrilla fighters to increase the "killed in combat" figure. Crisis Group interview, Medellín, 30 August 2006. Other cases of military abuse have been recorded by the Colombian press: in mid-February 2006, the use of abusive methods and torture to train soldiers in Tolima led to the dismissal of Army Commander General Reynaldo Castellanos; communal action group (*junta de acción comunal*) leader and forest warden Tiberio García of Chaparral (Tolima) disappeared on 29 May and was later presented as a FARC combat casualty by the army; a soldier confessed that a corporal had drawn lots for the killing of five peasants in the Cajamarca (Tolima) incident in November 2003. *Semana Online*, 6 September 2006.

³⁴ Prosecutors are investigating five presumed cases of terrorism in Bogotá involving four army officers and a FARC deserter who claimed the reward given informers: a taxi found with explosives on 15 July; a car-bomb that killed one civilian and injured fifteen soldiers on 31 July; a truck found with explosives near Bogotá on 6 August; a car-bomb de-activated on 15 August; and the de-activation of explosives in a house in a populous neighbourhood on 28 August by the army, the judiciary police (CTI) and the Security Administrative Department (DAS), *El Tiempo*, 8 September 2006.

³⁵ The Jamundí massacre allegedly involved Northern Valle cartel kingpin Diego Montoya.

³⁶ Robert Novak, "See elephant-sized worry? Neither does U.S.", *Chicago Sun Times*, 28 September 2006.

³⁷ "Informe al Congreso 2006", Departamento Nacional de Planeación, p. 30.

Uribe also needs to recognise that military actions alone cannot defeat the insurgency. To date his non-military efforts have been weak, limited, and something of an after-thought.

III. PEACE WITH THE PARAMILITARIES

A. JUSTICE AND PEACE LAW

One of the successes of the first Uribe administration – demobilisation of the AUC and the surrender of more than 31,600 of its fighters³⁸ – seems to have been the easy part. The second administration still has to finish putting this demobilisation into a legal framework, investigate and try the paramilitaries, and complete the reinsertion process of the demobilised while preventing them from re-entering the armed conflict, doling out reparations to their victims and beginning reconciliation. The credibility of the president and his legacy depend heavily on doing all this correctly.

The legal framework is the Justice and Peace Law (JPL) of 25 July 2005, which from the start has been controversial.³⁹ The JPL is not what the government wanted,⁴⁰ nor does it satisfy victims groups, human rights organisations or the UNHCHR, which condemned it as too generous to the AUC and in violation of the rights of victims under the constitution and international law.

The Constitutional Court ruling of 18 May 2006 agreed that some of the law's main provisions were incompatible with both constitutional and international humanitarian law.⁴¹ It gave the JPL some teeth and introduced a new

balance between benefits for former combatants and the victims' rights to truth, justice and reparation.⁴² The Court ruled that reparations to victims must not be limited to the ill-gotten assets held by ex-paramilitaries; all members of the same paramilitary bloc (unit) are to be held responsible for crimes committed by members of that bloc and will be liable for reparations; prison terms should be no less than five years and no more than eight, with time spent in the concentration zone during negotiations not to count as time served; and all benefits of the law are forfeited if ex-paramilitaries do not confess the whole truth.⁴³

The government has challenged the ruling and seeks otherwise to weaken its effect through an executive decree it argues will make the ex-paramilitaries more cooperative.⁴⁴ The Colombian Commission of Jurists denounced the executive decree, which allows former paramilitaries to benefit from much reduced sentences and less stringent requirements for reparation of victims.⁴⁵

For the paramilitaries there are three main issues: extradition, reparations and prison time. Extradition warrants to the U.S. on drug charges are pending against fifteen members of the AUC high command. Few paramilitaries have any intention of surrendering all their assets to the state, and none want to spend up to eight years in a high security prison. In addition, the JPL makes no provision for the special needs of families headed by demobilised women.

For many human rights and victims groups, there are two key issues aside from punishment: truth and reparation. While preferring harsher punishment, these groups, citing the Court ruling, want the paramilitaries to make full confessions of all their crimes or be ineligible for benefits.⁴⁶ They also want paramilitaries who fail to declare all their

³⁸ 31,687 paramilitaries demobilised collectively while 3,443 demobilised individually. Figures as of end August 2006. See <http://presidencia.gov.co>. While it is still too soon to confirm the trends, a study conducted by the Centro de Recursos para Análisis del Conflicto (CERAC) and the Instituto de Estudios Políticos y Relaciones Internacionales (IEPRI) showed that six of fifteen regions where paramilitaries demobilised have had significant drops in homicides. Positive effects were felt in Andean regions, the south-western regions of the Caribbean coast, the Caribbean valleys, the Catatumbo region, and parts of southern Cesar. However, in other regions, such as Nariño and Valle, homicide rates are unchanged. Andrea Gonzalez and Jorge Restrepo, "Desmovilización de las AUC: ¿Mayor seguridad humana?", UN Periódico, August 2006.

³⁹ Crisis Group Latin America Report N°16, *Colombia: Towards Peace and Justice?*, 14 March 2006.

⁴⁰ In the first bill discussed in Congress in 2004, the government proposed to give more concessions to the paramilitaries.

⁴¹ On 10 October 2005, 31 civil society organisations filed a Constitutional Court case on the JPL, which had come into

force on 25 July 2005. On 18 May 2006 the Court declared the process through which the law was passed constitutional but modified some of its provisions. "Sentencia No. C-370/2006", Corte Constitucional Bogotá, 18 May 2006.

⁴² Crisis Group interview, Bogotá, 1 September 2006.

⁴³ "Sentencia", op. cit. The ruling also reiterated the state's responsibility to insure adequate recovery for victims if the ill-gotten assets returned by former combatants are insufficient; said victims must have full access to information throughout the legal process; and granted judicial authorities more time to investigate and verify former combatants' confessions.

⁴⁴ Crisis Group interview, Bogotá, 1 September 2006. After harsh criticism and in an attempt to give more credibility to the decree, the government posted the draft on the internet, so people could offer opinions on how to improve it. Only a handful of comments were received, and the decree (3391) was issued on 29 September 2006.

⁴⁵ "Boletín No.4: serie sobre los derechos de las víctimas y la aplicación de la Ley 975", Colombian Commission of Jurists, 4 October 2006, at <http://www.coljuristas.org>.

⁴⁶ "Sentencia", op. cit., pp. 272-282.

assets (legal and ill-gotten) to the National Reparation Fund (NRF) to lose all benefits.

The extradition issue is not dealt with under the JPL or the Court ruling. All the paramilitaries have is Uribe's assurance that if they fulfil all the requirements of the JPL, they will not be extradited. The U.S., while not exerting direct pressure on the peace process, has said that it expects Colombia to honour its international obligations on extradition.⁴⁷ On 9 July 2006, the then minister of the interior and justice, Sabas Pretelt,⁴⁸ said that paramilitaries who completed their JPL sentences would have their extradition orders cancelled.⁴⁹ The executive decree stipulates that all crimes committed by paramilitaries while members of the AUC, including drug trafficking, will be subject to the JPL benefits.⁵⁰

In the face of mounting public criticism at the news that demobilised paramilitary commanders were living ostentatiously, Uribe issued an order on 14 August to "detain" the AUC high command in a temporary seclusion facility in La Ceja (Antioquia).⁵¹ At least eight have refused to surrender, insisting that the Constitutional Court shifted the goal posts.⁵² It is not clear

whether they are reconstituting their armed groups. José Barrera (alias "Chepe"), a paramilitary commander for more than fifteen years, was freed from La Ceja on 4 October because no charges were filed against him.⁵³

The demobilised paramilitaries are to be tried by Justice and Peace Units (JPUs) set up by the attorney general. By 15 August, 2,695 had applied for JPL benefits.⁵⁴ However, sources in the attorney general's office say that only 350 have charges pending.⁵⁵ There are several concerns with regard to implementation of the JPL, aside from the government's unwillingness to respect the Constitutional Court ruling.

In purely logistical terms, it is unclear how the JPUs, which have only twenty attorneys with special training in human rights and 150 specialised investigators,⁵⁶ can handle such a large number of complex cases.⁵⁷ To give an indication of the scale of the problem, official sources indicate they have information on hundreds of mass graves of paramilitary victims that could contain more than 2,800 bodies.⁵⁸ However, there are not enough resources to follow up, and only 150 bodies have been exhumed and processed.⁵⁹ These sites also need protection: there have been instances on the Caribbean coast of former paramilitaries digging up graves to destroy evidence.⁶⁰

The JPUs also face a Herculean challenge in collecting enough evidence to ascertain whether former paramilitaries

⁴⁷ During a visit to Colombia, Attorney General Alberto Gonzales said the U.S. would continue to demand extradition of all criminals who committed crimes against the U.S. "Fiscal Colombiano Destaca Cooperación con EE.UU", *Fiscalía General de la Nación*, 23 August 2005.

⁴⁸ He was replaced on 11 August 2006 by former Conservative Party leader Carlos Holguín.

⁴⁹ *El Tiempo*, 9 July 2006, p. 4.

⁵⁰ Article three of the draft decree concerning Law 975 of 2005.

⁵¹ The facility has been certified by the Colombian Penitentiary Institute (INPEC). From there, former paramilitary leaders will be able to conduct all tasks related to the peace process once the proper safe-passages are issued. However, some paramilitary leaders with extradition orders against them have not appeared, such as the "Mellizos" and Vicente Castaño, who is now said to be responsible for the murder of his brother Carlos, former AUC spokesman, in 2004. "Jorge 40", who is implicated in the assassinations of union and community leaders on the Caribbean Coast, gave himself up on 4 September, after two weeks of hiding. "Comunicado Alto Comisionado para la Paz", Oficina del Alto Comisionado para la Paz, 16 August 2006.

⁵² The highest profile paramilitary leader still at large is Vicente Castaño. In a communiqué, he set the following conditions for his surrender: publication of the approved presidential decrees on laws 782 and 975; restoration of all JPL guarantees as they were before the Court ruling; restoration of the status of political criminal nullified by that CC ruling; continuation of the reconciliation programs that were being carried out in Villa de la Esperanza; and allowing him to continue to manage from his prison cell the implementation of productive projects for reinserted former combatants under his command and crop eradication

programs on lands under his control, as well as to be held in a dignified place. *El Tiempo*, 23 September 2006.

⁵³ *El Tiempo*, 5 October 2006.

⁵⁴ JPL regulatory decree 2898 had given those included on the list a six-month grace period to reiterate willingness to be included and put themselves at the disposal of the JPU, "Lista de Postulados, Ley 975 de 2006", Oficina del Alto Comisionado para la Paz.

⁵⁵ Crisis Group interview, Bogotá, 1 September 2006.

⁵⁶ The attorneys have received training in international humanitarian law and human rights in addition to criminal investigation techniques, from centres in The Hague and Toledo, among others. The investigators come from the Judicial Police (CTI), under the attorney general's office. Crisis Group interview, Bogotá, 1 September 2006.

⁵⁷ According to government officials, JPL implementation rests largely upon the assumption it is in the former combatant's best interest to cooperate. They believe demobilised AUC members are well informed about JPL requirements but independent sources say former combatants do not know what the JPL eligibility criteria imply. Crisis Group interviews, Bogotá, 1 September 2006.

⁵⁸ Crisis Group interview, Bogotá, 1 September 2006.

⁵⁹ These are mostly in Bolívar, Sucre, Norte de Santander, Guajira, Magdalena and Putumayo. It would seem those near the Caribbean coast are most in danger of being tampered with. Crisis Group interview, Bogotá, 1 September 2006.

⁶⁰ Crisis Group interview, Bogotá, 1 September 2006.

have handed in all assets and confessed all crimes. They badly need more vehicles, video equipment for oral confessions, investigation tools and a discretionary budget for field investigations. Despite donor funding, including from the U.S.,⁶¹ Spain, the Netherlands and Switzerland, there is a significant shortfall. The attorney general's office estimates it needs a further \$10 million to operate the JPUs effectively until FY2008.⁶² The recent declarations by the president of the criminal court (*sala penal*) of the Supreme Court, Mauro Solarte, that it would not be able to fully process cases and appeals under the JPL for lack of resources have raised further concerns.⁶³

Although the JPU has received helpful information from some imprisoned paramilitaries,⁶⁴ it does not yet have any confessions of the sort required under the JPL.⁶⁵ With the paucity of resources, there is not sufficient protection for either ex-combatants or witnesses, victims and investigating attorneys.⁶⁶ Pressure is certain to come from paramilitaries outside the process who fear being implicated and from vendettas among demobilised fighters. Full confessions from paramilitaries could also open the Pandora's Box of political and security force collaboration with, and support for, the paramilitaries under Uribe. This is something the government wants desperately to avoid but there are indications it is starting to happen, with allegations of paramilitaries working with the DAS⁶⁷ and the capture of a laptop from a commander, "Jorge 40", in March 2006 that has led the attorney general's office to investigate the complex networks between paramilitaries and politicians along the Caribbean coast.⁶⁸

B. REINSERTION

Another huge challenge is reinsertion of the demobilised combatants. They are now part of the Program for the Reincorporation into Civilian Life (PRVC), under the Ministry of the Interior and Justice.⁶⁹ During the early stages of negotiation, AUC members were estimated to be around 12,000, so the end total of more than 31,600 was neither expected nor budgeted for. As part of the demobilisation package, paramilitaries receive a stipend,⁷⁰ accommodation and training, all of which is stretching already tight government finances. There have been several protests by demobilised fighters that the government has not kept its side of the bargain. Lack of employment opportunities has led to disillusionment with the program.⁷¹ Additionally, the specific needs of demobilised women – 6.7 per cent of the total of demobilised paramilitaries – and ex-combatants' wives are not being met. Demobilised female paramilitaries are not offered housing separate from men, gender-appropriate job training and support for dependent children.

The creation of a High Counsellor for Reinsertion on 8 June 2006 is a positive step that should help the reinsertion program work with other government agencies and departments and give it more political clout and accountability. The occupant of the office, Frank Pearl,⁷² urgently needs to address the decentralisation of the program, including by reaching out for help to local civil society organisations, including women's organisations. There are eight Reference and Opportunity Centres (CROs)⁷³ around the country to assist ex-combatants but

⁶¹ The U.S. has provided funding for isolated confession rooms, which will make attorneys' tasks more efficient. It has also provided funding for materials, vehicles, computers and attorneys' travel expenses to conduct investigations. Crisis Group interview, Bogotá, September 2006.

⁶² JPU budget: keep and protect the records of the proceedings (\$465,000); video equipment for the oral procedures (\$250,000); attention to victims and media releases (\$77,100); JPU offices in Barranquilla and Bogotá (\$181,700); personnel security and logistics (\$2 million); informants and intelligence (\$335,000); search and discovery of disappeared persons (\$218,000); identification of disappeared persons (\$147 million); protection of victims and witnesses (\$3.39 million); JPU operations, transportation, wages (\$2.77 million). JPU budget and Crisis Group email communication, 5 September 2006.

⁶³ *El Tiempo*, 28 August 2006.

⁶⁴ *El Tiempo*, 13 August 2006.

⁶⁵ Crisis Group interview, Bogotá, 18 October 2006.

⁶⁶ Crisis Group interview, Bogotá, 1 September 2006.

⁶⁷ "Martínez, 'Daniel', confesó a la Fiscalía los secretos del bloque Tolima de las Auc", *El Tiempo*, 11 September 2006.

⁶⁸ "El computador de 'Jorge 40'", *Semana*, 4-10 September 2006; "El 8,000 de la Costa", *Semana*, 11-17 September 2006; "El imperio de 'Jorge 40'", *Semana*, 2-8 October 2006; "El chat que

compromete al senador Dieb Maloof", *Semana*, 9-15 October 2006.

⁶⁹ The PRVC is run by the Ministry of the Interior and Justice. Its role as coordinator of the collective and individual reinsertion processes comes from Law 782 (2002), which outlines benefits granted to members of armed groups who demobilise and want to be reintegrated into society. Because its role involves national security, the PRVC has large budgetary independence and, in many cases, does not have to go through the regular public procurement process. Crisis Group Report, *Towards Peace and Justice?*, op. cit.; Crisis Group interview, Bogotá, 6 September 2006.

⁷⁰ The monthly stipend of about \$150 is given to ex-combatants for eighteen months.

⁷¹ "Desmovilizados de las autodefensas denuncian incumplimiento en el pago de las mensualidades", *El Tiempo*, 26 July 2006.

⁷² Pearl studied economics at the Universidad de los Andes. He is a prominent investment banker and recently served as president of a local investment firm, Valorem. Crisis Group recommended such a post in its report, *Towards Peace and Justice?*, op. cit.

⁷³ Eight regional CROs give ex-combatants legal, psychological and social aid in Montería, Cucuta, Turbo, Cali, Medellín, Sincelejo, Santa Marta and Valledupar. Three mobile CROs

they do not coordinate with local authorities.⁷⁴ The positive evolution of the collective demobilisation program in Medellín and the individual program in Bogotá has largely resulted from the commitment of local governments to adjust the program to local needs and allocate the necessary resources.⁷⁵ However, in regions where governance has suffered as a result of the presence of illegal armed groups, new strategies are needed to give local governments a stronger voice in the process.⁷⁶

C. NATIONAL COMMISSION FOR REPARATION AND RECONCILIATION (NCRR)

The National Commission for Reparation and Reconciliation (NCRR) was created under the JPL with the objective of initially attending to victims of paramilitary violence. Its priorities are discovering the truth regarding the death and disappearance of paramilitary victims, finding ways for reparation and paving the way for national reconciliation.⁷⁷ While the JPUs are charged with finding the evidence to try former paramilitaries benefiting from the JPL, the NCRR has the responsibility

to discover the historical truth surrounding violence since 1964.⁷⁸

Earlier rulings of the Inter-American Court of Human Rights (ICHR) awarding high compensation to victims of the conflict call into question the government's ability to pay compensation to hundreds of thousands of people. Former paramilitaries have opposed large indemnities.⁷⁹ NCRR President Eduardo Pizarro has repeatedly cautioned against high expectations for financial reparations and prefers to focus on an "integral reparation" approach, encompassing symbolic, collective and only in some cases individual reparation. The NCRR has at its disposal the assets the paramilitaries returned under the JPL, which have been put into custody by the National Reparation Fund (NRF). However, it is unclear how all ill-gotten assets that are to be handed over by former paramilitaries will be recovered: despite more than twenty years of paramilitary activity, only a few hundred paramilitary properties are in the expropriation process.⁸⁰

cover Magdalena Medio, Tolima, Huila, Caqueta, Putumayo, the Atlantic Coast, Casanare and Meta, "La Política de Reincorporación a la Vida Civil", Ministerio del Interior y de Justicia, August 2006, pp. 23-24.

⁷⁴ According to members of the PRVC, the heads of the CROs have been tasked to communicate with local authorities and promote cooperation but not to coordinate joint tasks. Crisis Group interview, Bogotá, 6 September 2006.

⁷⁵ In Medellín, the mayor's office has spent \$10.42 million while the national government has spent \$1.25 million on the program. 4,130 demobilised fighters live in Medellín. Crisis Group interview, Medellín, 29 August 2006; "Modelo de Intervención Regreso a la Legalidad", Alcaldía de Medellín - Programa de Paz y Reconciliación, Medellín, 29 August 2006.

⁷⁶ The International Organisation for Migration (IOM), the National Planning Department (DNP) and the PRVC are working to establish a management tool to help measure the level of social and economic integration of former combatants in their new communities. Regional reinsertion plans or agendas are being drawn up in Cesar, Córdoba, Urabá (Antioquia) and Magdalena. Their aim is to define roles for regional and local governments, inform the local governments of its responsibilities, identify possible institutional challenges, and create new coordination mechanisms. The promotion of reinsertion is a political issue in the run-up to the 2007 elections. Crisis Group interview, Bogotá, 6 September 2006.

⁷⁷ With money from IOM and the Netherlands, the NCRR released a document with its strategic and operational definitions and the guidelines of its mandate. "Definiciones estratégicas y operativas", NCRR, Bogotá, 7 September 2006.

⁷⁸ Subject to discussions, the NCRR chose 1964, the birth of the communist guerrillas, as the starting date of modern violence in Colombia. Historian Gonzalo Sánchez will be in charge of the historical truth research team; political analyst Mauricio Romero will be in charge of the paramilitary disarmament, demobilisation, reintegration (DDR) follow-up research team. There is concern to what extent the historical account of the conflict will bring light to the ties of former paramilitaries to local political, economic, and social power structures. Crisis Group interview, Bogotá, 22 August 2006.

⁷⁹ The NRF has not yet received any contributions. Straw-men are used to hold illegal assets, and there are reports that paramilitaries have gained access to local public registries (*oficina de instrumentos públicos*) to eliminate evidence of land tenure titles. *El Tiempo*, 29 July 2006. Crisis Group interview, Bogotá, 1 September 2006.

⁸⁰ *El Tiempo*, 3 July 2005. It is estimated that internally displaced persons have abandoned over four million hectares due to the conflict. Mauricio Uribe, "¿Un campo para la paz?", *Hechos del Callejón*, No.1, March 2005. Neither the JPL, the Constitutional Court ruling nor the government regulatory decrees specify at what point during the process the NRF will take charge of the assets. Up to May 2006, the Office of the High Commissioner for Peace had information about only 59 urban properties and some 24,000 hectares of land to be handed in by paramilitaries. "Proceso de Paz con la Autodefensas: Informe Ejecutivo", Oficina del Alto Comisionado para la Paz, May 2006. Although the NCRR is setting up a National Victims Registry database, it is estimated that close to 60 per cent of the displaced victims would be colonisers with no legal tenure rights. Crisis Group interview, Bogotá, 1 September 2006. Coercive practices are also used to force land sales. "Control Preventivo y Seguimiento a las Políticas Públicas en materia de Reinserción y Desmovilización", Procuraduría General de la Nación, Vol.1, p. 156.

D. RECYCLING OF VIOLENCE AND NEW PARAMILITARY/CRIMINAL GROUPS

With a lack of opportunities and few civilian skills, the demobilised are vulnerable to recruitment back into criminal organisations. The eighteen to 24 months over which the PRVC provides assistance is too short to prepare ex-combatants to make a legal living.⁸¹ The latest statistics show that only some 25 per cent have full time jobs.⁸²

The lack of specific programs for mid-level commanders also is a liability.⁸³ Although officials believe most mid-level commanders are among the 2,685 former combatants who applied for JPL benefits,⁸⁴ the more assertive measures introduced by the Constitutional Court may convince these men, who have great knowledge of the criminal networks established by paramilitaries groups, that they have little to lose and much to gain from returning to the criminal world.⁸⁵ Only making their capture and incarceration a high priority can begin to reverse that belief.

The history of the paramilitary groups and drug trafficking is indivisible. The drug trade has not been hard hit by the government's security policy; what is occurring is a change in the characters fronting the business. Many of the emerging structures appear to involve ex-paramilitaries and to be a continuation of the AUC's system. According to the verification efforts of the OAS Mission to Support the Peace Process in Colombia (MAPP-OAS), there have been instances of rearmament as well as the appearance of armed groups representing an amalgamation of forces

and interests from different illegal sectors claiming to be the "new generation of paramilitaries".⁸⁶

It is, therefore, no surprise that the upsurge of these new armed structures has been most pronounced in drug-crop growing areas and along drug-trafficking corridors.⁸⁷ In the Catatumbo region (Norte de Santander) near the Venezuelan border, the emergence of new armed groups, such as the self-proclaimed "Aguilas Negras" (Black Eagles), responds to the existence of established criminal networks underpinning the traffic of arms, weapons and cocaine precursors. Demobilised fighters there, who have resettled mostly in large and mid-size urban areas,⁸⁸ face heavy pressure from these new groups and other urban gangs to join, resulting often in fights for local supremacy.⁸⁹ The same is true in the southern Nariño department (near the Ecuador border), where a new structure comprising elements from the old AUC "Libertadores del Sur" bloc has appeared: "Nueva Generación" (New Generation).⁹⁰

The state has the burden to fill the security vacuum left by the demobilising paramilitary groups so that new ones do not evolve or guerrillas take their place. It has not yet reacted rapidly or effectively, leaving the door open for a continuation of the violence and with no lasting settlement to the conflict any closer.⁹¹

⁸¹ Crisis Group interview, Medellín, 29 August 2006.

⁸² The reinsertion process is divided into four six-month phases; only during the last phases are ex-combatants ready to enter the labour force or take part in the productive projects program. Crisis Group interview, Bogotá, 6 September 2006.

⁸³ Despite having made progress in establishing accurate profiles for ex-combatants, the PRVC still lacks information about mid-level commanders. Only informal steps have been taken to include them in the program as manual coca crop eradicators and productive project promoters. Medellín authorities have encouraged mid-level commanders to become program promoters and role models for foot soldiers, in an attempt to reduce their capacity to coerce ex-combatants and the population. The Corporación Democracia is a non-governmental organisation managed by former combatants that participates in reinsertion projects. Crisis Group interview, Medellín, 29 August 2006.

⁸⁴ Crisis Group interview, Bogotá, 22 August 2006.

⁸⁵ Some have no criminal records or warrants against them and could go through law 782. Some, while waiting for JPL prosecution, have not been tended to properly by the PRVC, which suspended their pay. *El Espectador*, 10 July 2006.

⁸⁶ "Séptimo Informe Trimestral del Secretario General al Consejo Permanente Sobre la Misión e Apoyo al Proceso de Paz en Colombia (MAPP-OEA)", Permanent Council OAS, Washington D.C., 30 August 2006, p. 6.

⁸⁷ "Plan Operativo Policial Contra Bandas Criminales", Policía Nacional, 8 June 2006.

⁸⁸ Former members of the Catatumbo bloc have tallied the largest numbers of ex-combatant deaths (90) and captures (49). This trend shows the pressures under which former combatants will be placed in cities such as Cúcuta (351 ex-combatants), Barrancabermeja (252) and Bucaramanga (112) with high concentrations of demobilised fighters. "Desmovilizaciones colectivas de las Autodefensas: Estado de la Reincorporación", Oficina del Alto Comisionado para la Paz, 28 July 2006.

⁸⁹ *Semana.com*, 17 July 2006.

⁹⁰ "Séptimo Informe", op. cit.

⁹¹ After demobilisation of the Bananero and Elmer Cárdenas Blocs in 2004 and 2006, respectively, people in the Urabá region have denounced the increasing presence of FARC detachments specialising in kidnapping and selective killings. "Nuevos escenarios de la confrontación armada en el Urabá antioqueño", Programa de Derechos Humanos – Vicepresidencia de la República, 13 September 2006.

IV. PEACE PROSPECTS WITH THE INSURGENTS

The FARC remains strong enough to dominate up to one third of the country, mostly the deep jungles of the south and east, where the army lacks the manpower and other resources to challenge it.⁹² The ELN is weaker but retains some capacity as well, mainly its central command unit (COCE) in Norte de Santander along the Venezuelan border.⁹³ Negotiations with both movements are likely during Uribe's second term. The election campaign showed there is increasing support for negotiated solutions to the 43-year civil conflict.⁹⁴ Colombian and U.S. military leaders, like much of the public, also generally regard military solutions as unlikely. Uribe acknowledged this sentiment in his inauguration speech and said he was disposed to talk, though not at the expense of the security gains of the past four years. On 27 September 2006, he departed from his first term position and said his administration was willing to accept establishment of a "meeting zone" to accelerate a hostages-for-prisoners swap with the FARC.

The FARC has yet to show real willingness to engage in peace talks but is very interested in what it terms a humanitarian prisoner exchange (*canje humanitario*). It has 62 hostages (politicians, security force personnel and three U.S. military contractors), in addition to approximately 1,000 being held for ransom. There are an estimated 500 FARC members in prisons across the country. The movement's founder and supreme leader, Manuel Marulanda (real name Pedro Marín), has made freeing these fighters a priority, both to boost morale and to alleviate a shortage of experienced middle-ranking commanders, several dozen of which are among those held by the government.

In a major reversal, the FARC announced in a letter to the authorities on 1 October that if all hostages and prisoners were freed, the way would be open to full peace talks. However, it set major conditions, including demilitarisation of two departments (Caquetá and Putumayo), suspension of arrest warrants against top commanders, removal of the FARC from all international lists of terrorist organisations and a nationwide halt of military operations.

Senior officials and sources close to the talks with both insurgent groups told Crisis Group that Uribe, who has

named Fabio Valencia as presidential counsellor for peace,⁹⁵ is committed to exploring all possible avenues.⁹⁶ Slowly but surely talks with the ELN seem to be on the right track. The round which opened in Havana on 16 October 2006 could bring a true agenda for negotiations close. The Cuban hosts, along with Norway, Spain and Switzerland, act as observers. Venezuela, which hosts the ELN negotiator, Antonio Garcia, also plays a role.

Both the FARC and the ELN, however, still harbour deep mistrust of the government and fear Uribe could use negotiations for political gain. The government's matching concern is that the insurgents will try to draw out the process until they feel they have strengthened their positions enough to negotiate on their own terms.⁹⁷

A. THE FARC: SWAP YES, BUT REAL PEACE TALKS?

Once it became clear Uribe would win re-election, the FARC began to back away from its vow never to talk to him.⁹⁸ Its decision not to try to sabotage the presidential elections was followed by an appeal in July 2006 to the Finnish presidency of the EU to be removed from the terrorist group list.⁹⁹ FARC spokesman "Raúl Reyes" told a television station (Telesur) on 22 June and a weekly magazine (*Cromos*) on 7 September the FARC was willing to discuss a hostages-for-prisoners swap if two municipalities in the department of Valle were demilitarised.¹⁰⁰ He also referred positively to Senate President Dilian Toro's invitation for the movement to address Congress.¹⁰¹ Former FARC commander Yesid Arteta told an academic

⁹⁵ Fabio Valencia negotiated for the Pastrana government during the 1998-2002 peace process with the FARC. High Commissioner for Peace Luis Restrepo remains the lead government negotiator with the paramilitaries and guerrillas; Fabio Valencia, who is also Uribe's counsellor for competitiveness and productivity, is charged with preparing the ground with the FARC for the hostages-for-prisoners exchange and possible peace talks.

⁹⁶ Crisis Group interviews, Bogotá, 16, 18 and 24 August and 1 September 2006.

⁹⁷ Crisis Group interview, Bogotá, 18 August 2006.

⁹⁸ "Con Uribe no habrá intercambio humanitario", Communiqué by the FARC Secretariat, 29 December, 2006.

⁹⁹ Letter to Finland Prime Minister Matti Vanhanen, EU presidency, 20 July 2006, at <http://www.anncol.org>.

¹⁰⁰ A commission put together by France, Spain and Switzerland proposed demilitarisation of Pradera and Florida municipalities (department of Valle) to initiate the talks for a hostages-for-prisoners swap in December 2005. Uribe accepted immediately; the FARC rejected it, saying it had not been informed in advance and that the government was seeking electoral gain.

¹⁰¹ Senate President Dilian Toro's address during the inauguration ceremony of 20 July 2006.

⁹² Crisis Group interviews, Bogotá, 16, 18, 22, 23 August and 6 September 2006.

⁹³ Ibid.

⁹⁴ The plural is used because the situations of the two main groups, the larger FARC and the ELN, are different.

conference that negotiations were possible.¹⁰² However, the FARC has continued military operations, concentrating on attacking the security forces and trying to occupy former paramilitary strongholds and take over drug-trafficking activities in those areas.¹⁰³

Uribe said in a communiqué after the election he was willing to move toward peace talks “patiently, prudently and persistently”.¹⁰⁴ The decision to accept a “meeting zone” addresses the most insistent FARC demand. The distinction, Uribe says, between the “meeting zone” and a demilitarised zone like the 40,000 sq. km. area former President Pastrana created is that the former would not allow in armed rebels. The FARC still insists on including security detachments for its three negotiators, something Uribe has ruled out, saying the international observers would guarantee security.¹⁰⁵ Fabio Valencia’s appointment is positive: he is a seasoned politician and veteran of the 1998-2002 talks. Respected by the FARC, he gives the Uribe team a strong political dimension. He says the government has no preconceived model and is willing to explore all paths.¹⁰⁶ There have been attempts to probe the FARC through informal facilitators, including Church

members, ex-government negotiators, former presidential candidate Alvaro Leyva and Carlos Lozano, director of the Communist weekly, *Voz*.¹⁰⁷

It has been argued that the hostages-for-prisoners swap has become a personal matter for Marulanda, who sees it as his legacy for the movement he helped found more than 40 years ago and distinct from any other negotiations with the government.¹⁰⁸ But the FARC may also see talking with Uribe as a way to make up political ground lost when the negotiations with the Pastrana government broke down. Its inclusion at that point on the EU terrorism list, for example, forced closure of its various representation offices in Europe and elsewhere.

The increased military pressure has also taken its toll on the FARC’s political structures. The reduction of guerrilla fronts into smaller, more mobile units has come at the cost of capacity for territorial control. As many urban centres have been closed off to the FARC, indoctrination and political work has suffered, with likely impact on the ability to recruit volunteers. In 2006, the government reported desertions of 1,110 FARC fighters, bringing its estimation of total FARC desertions to more than 5,100 since the demobilisation program was implemented for individuals in January 2003.¹⁰⁹ The FARC is trying to reopen its political offices in Europe but the Europeans are reluctant to assent without signs that the movement is showing new flexibility in the peace process.¹¹⁰

The first step toward any dialogue must be agreement on the locale. The FARC does not trust the security forces, or Uribe, enough to allow senior commanders to move into any area which they cannot secure themselves and from which they cannot easily escape. The municipalities of Pradera and Florida in Valle del Cauca are currently their preferences.¹¹¹ The details of any exchange will also be difficult. Among the prisoners the FARC demands are “Simón Trinidad” and “Sonia”, both extradited to the U.S. in 2004-2005, as well as Francisco Caraballo, an imprisoned Popular Liberation Army (EPL) commander.¹¹² Another difficulty could arise if the government insists on a ceasefire.¹¹³

¹⁰² *Cromos*, 7 September 2006. In a conference at the Sabana University of Bogotá on 30 August 2006, Arteta said the government should appoint its negotiators for the hostages-for-prisoners swap, and the FARC’s decision to halt attacks during the presidential election and demand to be dropped from the EU terrorism list were signs of a disposition to talk. See <http://www.caracol.com.co/noticias/326558.asp?id=326558>.

¹⁰³ FARC activity in former AUC strongholds has been detected in Buenaventura and the north of Valle, where there are corridors to the Pacific Ocean important for drug trafficking; in Chocó, near the Panamanian border, ten loggers were killed, 170 kidnapped and over 500 displaced by the FARC’s attempt to take the territory of the AUC’s demobilised Elmer Cardenas Bloc; on 7 August, the FARC attacked a large gasoline storage facility in the northernmost department of Guajira, destroying more than 85 trucks; between 10-16 August, FARC troops attempted to blockade the Catatumbo region (Norte de Santander) by cutting power lines and burning cars; attempts to penetrate into Tarazá in the north of Antioquia, a former paramilitary area known for coca growing, have been reported. Crisis Group interviews, Medellín and Bogotá, 30 August and 6 September 2006.

¹⁰⁴ Uribe acknowledged that the JPL would not be applicable to the insurgents; he agreed that negotiations with the FARC could lead to a constituent assembly; and he said he would be willing to expand the security zone for the hostages/prisoners swap in Pradera and Florida municipalities if negotiations were held following a positive gesture. An analyst told Crisis Group the government had learned its lessons from previous negotiations and would not rush to show results. Crisis Group interview, Bogotá, 16 August 2006.

¹⁰⁵ Radio Cadena Nacional (RCN) interview with President Alvaro Uribe, 10 October 2006.

¹⁰⁶ Crisis Group interview, Bogotá, 16 August 2006.

¹⁰⁷ “La ofensiva de paz de Uribe”, *Semana*, 14-20 August 2006. Crisis Group interviews, Bogotá, 16 and 22 August 2006.

¹⁰⁸ Crisis Group interview, Bogotá, 22 August 2006.

¹⁰⁹ “Primer informe de control y monitoreo: Grupos desmovilizados”, Policía Nacional, July 2006. *El Tiempo*, 13 September 2006. Crisis Group interview, Bogotá, 6 September 2006.

¹¹⁰ Crisis Group interview, Bogotá, 22 August 2006.

¹¹¹ They were proposed by the friendly countries (France, Spain and Switzerland) in 2005.

¹¹² The EPL demobilised in the early 1990s.

¹¹³ During his 7 August 2006 speech, Uribe alluded to the conflict in the Basque country as a reference for negotiations,

B. THE ELN: ESTABLISHING THE BASIS FOR A FORMAL PEACE PROCESS

There appears to be a better chance to start a real peace process with the ELN. Although the meetings that have been held in Cuba between senior commanders and government representatives have not yet produced a major agreement and relations remain delicate,¹¹⁴ reason for optimism is seen in the ELN decision to avoid any violent action during the election and to remove mines in a municipality in Nariño department. A few analysts believe the public undervalues a peace process with the ELN because it is generally perceived as a defeated group.¹¹⁵ However, an actual peace agreement with the movement would be a major achievement.

Uribe made two key concessions in his first administration to allow the dialogue to progress. The first was the release in September 2005 of "Francisco Galán", the most senior imprisoned ELN rebel, to act as mediator with the Central Command, the COCE,¹¹⁶ and the establishment of the Peace House as a forum for discussion between the ELN and civil society. The second was suspension of arrest warrants for some of the ELN high command, particularly Antonio García, who is now the movement's principal negotiator in Cuba.

During the "exploratory phase" of the first three rounds in Havana (December 2005, February and April 2006),

pointing out that the lack of violent actions for many years had eased the path. A person close to the process told Crisis Group the FARC would almost certainly not accept a ceasefire. Crisis Group interview, Bogotá, 22 August 2006.

¹¹⁴ The guarantors have called for re-launching of the peace talks as soon as possible, because they fear the process could stagnate and public support falter. *El Tiempo*, 5 September 2006. The ELN protested the supposed suicide of one of its militants, Francisco Gamboa, shortly after being arrested in Bogotá.

¹¹⁵ The perception of the ELN as a defeated movement is strengthened by the lowered estimates of its fighters, from a high of more than 4,500 in 2001 to fewer than 3,600 in 2004. There have reportedly been at least 1,349 deserters thus far in 2006. "¿Cómo va el ELN?", UNDP/PNUD, *Hechos del Callejón*, No. 5, June 2005, p. 13. Germán Espejo et al., "La Encrucijada del ELN", *Seguridad y Democracia*, p.16. "Primer informe", op. cit. Crisis Group interviews, Bogotá, 16, 22 August 2006.

¹¹⁶ Though the COCE acts as the ELN's decision-making organ, the process is complex, due to the movement's federal nature and the different political and military situations of its war fronts. For instance, some fronts in Antioquia and Magdalena Medio have suffered defeats; those in the Catatumbo region are relatively strong. Crisis Group interviews, Bogotá and Medellín, 16, 18 and 30 August 2006.

things moved slowly, but mutual confidence has grown.¹¹⁷ The COCE's acceptance of Antonio García as its negotiator was interpreted as positive by Peace Commissioner Restrepo, his government counterpart.¹¹⁸ Juan Carlos Cuéllar, another imprisoned ELN member, was also permitted to go to Havana.¹¹⁹ The government has proceeded cautiously, showing it is serious,¹²⁰ and has been flexible enough not to insist on a unilateral ceasefire or a set agenda as a precondition to talks.

A source close to the process told Crisis Group he expects more concrete results from the current, fourth round in Havana.¹²¹ That session reportedly began on 16 October with prediscussions between the ELN negotiating team and Colombian civil society organisations. Discussions between the ELN and the government negotiators are anticipated to begin on 20 October and continue for at least a week.¹²² The international guarantors are pressing the parties to move beyond procedural points and negotiate seriously.¹²³ However, there are some serious hurdles to overcome:

- ❑ Antonio García has called for imprisoned rebels to be amnestied prior to full peace negotiations.
- ❑ The government demands a ceasefire and an end to kidnappings on which ELN finances heavily depend.
- ❑ The government also seeks de-mining of regions with ELN presence and an agreement the movement will not recruit further underage combatants. The former could endanger ELN security at a time when it is facing attack in some areas by the FARC.¹²⁴ The rebels reject any ceasefire which would require them to relinquish their weapons and stay in concentration zones.¹²⁵

¹¹⁷ The government had attempted to include the ceasefire in the agenda for negotiations in Mexico which ultimately failed. As a result, the December 2005 and February and April 2006 talks in Havana were carried out without prior conditions.

¹¹⁸ Crisis Group interviews, Bogotá, 16 August 2006.

¹¹⁹ *El Tiempo*, 3 October 2006.

¹²⁰ Crisis Group interview, Bogotá, 16 August 2006.

¹²¹ Crisis Group interview, Bogotá, 16 August 2006.

¹²² *El Tiempo*, 17 October 2006.

¹²³ *El Tiempo*, 5 September 2006.

¹²⁴ Despite the obstacles, a humanitarian agreement could be viable, as the partial de-mining in Micoahumado demonstrated; the handing over of underage combatants almost took place during the Samper administration. Crisis Group interview, Bogotá, 16 August 2006. The FARC declared war on the ELN in Arauca. Communiqué FARC Bloque Oriental, 23 March 2006, <http://www.farcep.org/?node=2,2117,1>.

¹²⁵ This was confirmed in a communiqué from the ELN commander, "Gabino", on 17 July 2006, <http://www.eln->

- ❑ While the ELN has said it intends to participate in the political debate and consolidation of "alternative" local governments for the 2007 municipal and departmental elections,¹²⁶ it is uncertain how it would react if pro-Uribe parties dominate those elections.
- ❑ Some ELN fronts could resist a peace process, especially those with close ties to the FARC. Internal ELN discussions have been heated, as reflected in communiqués.¹²⁷ One analyst believes negotiations with the ELN and with the FARC must be simultaneous if they are to succeed. If the ELN process fails, disgruntled rebels could join the FARC and promote a more radical stance vis-à-vis the government.¹²⁸

It is still unclear how the ELN-proposed National Convention would work and whether it would lead to a constituent assembly,¹²⁹ such as Uribe recently proposed to implement if negotiations with the FARC succeeded.¹³⁰

The ELN is under pressure to negotiate or become irrelevant. Its finances are in bad shape;¹³¹ it has been battered by the security forces, the paramilitaries and the FARC. The COCE appears to have only tenuous control over some of the more remote fronts. However, this does not mean the ELN will take any deal offered. After fighting for more than 40 years, the COCE will only accept a dignified exit. There also is still a belief among the rebels that their movement could enjoy another remarkable revival, as after the 1971 army offensive which almost destroyed it.

voces.com. The ELN sees the JPL as designed exclusively for the paramilitaries. Crisis Group interviews, Bogotá and Medellín, 16, 30 August 2006.

¹²⁶ The ELN does not propose to run its own candidates, but to participate more actively in the political debate. Crisis Group interviews, Bogotá and Medellín, 16, 30 August 2006.

¹²⁷ According to an expert on the ELN, the signature of commander "Gabino", the movement's historic leader, and not the COCE, on the most recent communiqué could be a sign that he has had to use his personal prestige and charisma to strengthen internal cohesion. Crisis Group interview, Bogotá, 18 August 2006.

¹²⁸ This has happened with EPL dissidents who were rearmed by the FARC. Despite the vendettas between ELN and FARC fronts in Arauca, the ELN claims revolutionary solidarity and will not let the government use an eventual peace process as leverage against the FARC. The FARC is kept informed of the evolution of the ELN talks. Crisis Group interviews, Bogotá and Medellín, 16, 30 August 2006.

¹²⁹ Crisis Group interview, Medellín, 30 August 2006.

¹³⁰ "Declaraciones del alto comisionado de paz", SNE, 2 October 2006.

¹³¹ Crisis Group interviews, Bogotá, 11 April 2006.

V. POLITICAL SITUATION AND REFORMS

Uribe appears to be in a strong position to push through an ambitious legislative agenda during his second term. In his first four years, he had to rely on the Conservative Party and dissident Liberals to pass legislation. Now he has a comfortable majority in both houses of Congress. The pro-Uribe coalition¹³² relies on three principal components: The U party with twenty senators (out of 102) and 30 members of the lower house (out of 168), the Conservatives (eighteen senators and 29 members of the lower house), and Cambio Radical (fifteen and twenty, respectively). Minor pro-Uribe parties have eight seats in the senate and nine in the lower house. Laws passed in the first term – constitutional reform of political parties and of Congress (the Acta Legislativa of 2003 and Law 974 of 2005) – should make the president's job easier, since the new legal framework substantially modifies executive-legislative relations and is designed to impose party discipline.¹³³

However, Congress actually seems to have become more fractious. Fissures appeared in Uribe's camp even before the new Congress convened on 20 July 2006, as the Uribista parties fought for government jobs. The particularly fierce struggle between the U party and Cambio Radical has not been helped by the rivalry between the party leaders, Juan Manuel Santos and German Vargas Lleras respectively, both of whom are already preparing to run for president in 2010. Political ideology is almost irrelevant: it would be hard to distinguish between the parties' platforms. Despite reforms, Colombia's politics is still about government jobs and personal interests.¹³⁴

¹³² Parties of the pro-Uribe coalition include: U party, Conservative party, Cambio Radical, Alas-Equipo Colombia and Colombia Democrática. Just before Congress convened, Convergencia Ciudadana and Colombia Viva were added to the coalition.

¹³³ These measures introduced single-party lists (both open and closed), thresholds for entry into Congress, a new system of guaranteeing more accurate proportional representation (*cifra repartidora*), prohibition of simultaneous membership in multiple parties and regulations on internal party cohesion and discipline.

¹³⁴ See Crisis Group Report, *Uribe's Re-election*, op. cit. As a reward for its discipline and loyalty during Uribe's first term, the Conservative party received four ministries, interior and justice (Carlos Holguín); agriculture (Andrés Arias); culture (Elvira Cuervo); and mining (Hernán Martínez); and the chairmanship of the lower house of Congress (Alfredo Cuello). The U party received two ministries, defence (Juan Manuel Santos) and the presidency ministry (Oscar Zuluaga); and the presidency of the senate (Dilian Toro). Cambio Radical received two ministries, environment and housing

The government coalition failed its first test, when election of representatives for a new National Electoral Council (CNE) on 30 August became an undignified free for all that showed it as only an opportunistic electoral vehicle. Cambio Radical joined the opposition Liberal party to gain four seats on the CNE; the other pro-Uribe parties won four seats altogether: two for the conservative party, one for Alas-Equipo Colombia and Colombia Democrática,¹³⁵ and one for the U party, four of whose members supported another pro-Uribe party, Convergencia Ciudadana.

It no longer appears realistic that Uribe can use the U Party as the foundation upon which to base his legislative program.¹³⁶ *El Tiempo* political analyst Carlos Galán says that party may believe that being an “obedient soldier” gives fewer advantages than the rebellious attitude of Cambio Radical, which got appointments every time it threatened to leave the coalition.¹³⁷ There are indications U party legislators are moving in that direction.¹³⁸ Uribe to some extent has himself to blame as he has engaged in the cronyism and back-room dealing that he swore to avoid.¹³⁹ The situation is likely to get worse: many proposed reforms are unpopular, and without an ideological or programmatic roadmap, the pro-Uribe parties could fight among themselves for special advantage all the way.

Consequently, Uribe may have more trouble passing his program than he did in the first term. Indeed, much of his agenda consists of institutional reforms that already failed to pass after he lost the 25 October 2003 referendum.¹⁴⁰ The priorities are to pick up some of these initiatives again and focus on structural tax reform, overhaul of the decentralisation policy for transferring revenues to departments and municipalities and approval of the free

trade agreement (FTA) with the U.S. Institutional reform will be tackled on several fronts: tax, fiscal, labour, pensions and health. The other area of reform involves closing state companies with huge deficits and improving the efficiency of all other public entities.

Perhaps one of his administration's greatest short-term concerns with the U.S., however, is that the Andean Trade Preference and Drug Eradication Act (ATPDEA) and the duty-free benefits it provides Colombia and other Andean countries expire at the end of the year. Since the FTA is unlikely to be approved during the lame-duck session of the U.S. Congress following the November elections, Colombia and its Andean neighbours are pressing the Bush Administration to protect their trade by supporting extension of ATPDEA.

Uribe's administration does start the second term in a stronger position economically. During the first term, the economy recovered from the 1998-2001 general recession that hit most of Latin America,¹⁴¹ with annual GDP growth peaking in 2005 at 5.1 per cent.¹⁴² Inflation has been reduced and kept in single digits, while exports have risen.¹⁴³ Foreign investment has increased five-fold since 2003,¹⁴⁴ and reserves have grown by almost 40 per cent since 2002.¹⁴⁵ This good macro-economic performance has been helped by improved tax collection¹⁴⁶ and a reshaping of the public sector.

However, while the fundamentals are in good shape, the success is based in part on the growing global demand for commodities produced in the region, particularly oil, coal and mining products, coupled with low interest rates. Should the world economy and Latin American in particular enter a new recession cycle, Colombia could be seriously affected. Moreover, the external debt, both

(Juan Lozano) and communications (María Guerra). Alas-Equipo Colombia got one ministry, foreign affairs (María Consuelo Araújo). Colombia Democrática and Convergencia Ciudadana got one sub-cabinet position each.

¹³⁵ Alas-Equipo Colombia and Colombia Democrática also formed an alliance with the left-wing opposition Polo Democrático Alternativo to win one seat.

¹³⁶ On 14 September 2006, U party directors met President Uribe to discuss the unhappiness of some legislators about the small number of bureaucratic appointments the party had been awarded.

¹³⁷ “¿Qué pasa con la U?”, *El Tiempo*, 3 September 2006.

¹³⁸ “Uribe está cansado de la pedidora de puestos”, *El Tiempo*, 26 September 2006.

¹³⁹ By incorporating Convergencia Ciudadana and Colombia Viva in the coalition, parties that had been expelled from it in the run-up to the Congressional election for alleged links with paramilitaries, Uribe opened the door to many other opportunistic political alliances.

¹⁴⁰ For more on the referendum, see Crisis Group Latin America Report N°6, *Colombia: President Uribe's Democratic Security Policy*, 13 November 2003.

¹⁴¹ The Latin American recession followed economic crises in Mexico and Brazil in the mid 1990s and in Argentina at the beginning of the century.

¹⁴² In 2002, Colombia's annual GDP growth was 1.9 per cent, in 2003, it was 3.9 per cent and in 2004, 4.04 per cent; the cumulative growth in the first two quarters of 2006 was 4.6 per cent. See <http://www.dane.gov.co>, and <http://www.comunidadandina.org>.

¹⁴³ Exports have steadily increased from \$11.975 billion in 2002 to \$21.187 billion in 2005; from January to June 2006, exports were \$11.529 billion. See <http://www.comunidadandina.org>.

¹⁴⁴ Foreign investment dropped from \$2.525 billion in 2001 to \$1.758 billion in 2003. In 2004, it almost doubled, to \$3.117 billion, then in 2005, it almost tripled, to \$10.192 billion. See <http://www.comunidadandina.org>.

¹⁴⁵ Colombia's reserves increased from \$10.841 billion in 2002 to \$14.947 billion in 2005. See <http://www.comunidadandina.org>.

¹⁴⁶ During Uribe's first term, the national treasury (DIAN) increased its tax collection by 56 per cent (from \$9.127 billion in 2002 to \$14.28 billion in 2005). See <http://dian.gov.co>.

the government's and the private sector's, remains high,¹⁴⁷ and the balance of payments is still negative.¹⁴⁸ If Colombian oil reserves drop, oil exports, an important revenue source, could be hurt,¹⁴⁹ requiring either cuts in government spending or increased taxes to maintain security and social programs.

There is still a large informal economy, and underemployment affects almost 30 per cent of the economically active population, while unemployment was 14 per cent in 2005, the same level as before the economic crisis at the end of the 1990s.¹⁵⁰ Some 50 per cent of the population is at or below the poverty line, leaving Colombia ranked as the most inequitable country for wealth distribution in the Andean sub-region and one of the worst worldwide.¹⁵¹ Military spending continues to soar, and though Finance Minister Alberto Carrasquilla has repeated that he will push the tax reform bill, its changes would not increase

overall tax collection,¹⁵² and even pro-Uribe legislators have expressed fierce opposition to the draft.¹⁵³

All this leaves it uncertain how much further Uribe can improve tax collection and what will happen if he tries to impose a new tax on wealth to sustain security spending. There is a risk of a downward spiral: if security financing drops as a consequence of tighter economic conditions, security on the ground could be weakened. If that happens, foreign investors could lose confidence and bolt, further reducing government revenue. And the U.S. Congress might ask, if there is no evidence of increased sacrifice by Colombian taxpayers, why should U.S. taxpayers make up the difference?

VI. CONCLUSION

Uribe's largely successful first term saw improvements in security and citizens' confidence in the capacity of the state to govern. Building on the security reforms begun under his predecessor, Andres Pastrana, Uribe managed to isolate the cities, where 70 per cent of Colombians live, from the worst of the civil conflict. His efforts to hurt the FARC in its jungle and mountain strongholds, however, mostly failed. Indeed FARC attacks have increased in 2006. The country's geography is perfect for guerrilla warfare and the sheer scale of the territory involved when compared with the government's resources make a military victory nearly impossible.

While the guerrillas have changed strategy and tactics in the face of the newly invigorated armed forces, the military has not shown the same adaptability in its response to developments in the war. A perennial problem for the army has been its inability to win hearts and minds, particularly in the remoter corners of the country where the FARC has been the only authority for

¹⁴⁷ When Uribe took office in 2002, total external debt (from both the government and private sector) amounted to 43.8 per cent of GDP; in 2003, it soared to 52.7 per cent and in 2004 and 2005, it dropped to a still high 46.8 per cent and 46.2 per cent, respectively. Government external debt reached \$22.781 billion in 2002; \$24.527 billion in 2003; \$25.712 billion in 2004; and \$23.355 billion in 2005. See <http://www.comunidadandina.org>.

¹⁴⁸ Imports increased from \$12.69 billion in 2002 to \$21.204 billion in 2005. See <http://www.comunidadandina.org>.

¹⁴⁹ The government seeks to reach demand-production equilibrium by 2008 and is desperate to find new reserves. An aggressive exploration program is underway, which includes joint ventures with foreign oil and gas multinationals as well as capitalisation of the state-owned company Ecopetrol by the sale of 20 per cent of stock to private investors.

¹⁵⁰ When Uribe took office in 2002, unemployment was 17.6 per cent. It has steadily dropped to 16.7 per cent in 2003, 15.4 per cent in 2004 and 14 per cent in 2005. See <http://www.dane.gov.co>.

¹⁵¹ The UN Development Program (UNDP) ranks it as the eleventh most inequitable country for wealth distribution, among 124 analysed. "Human Development Report 2005", UNDP/PNUD, Table 15, pp. 271-272.

¹⁵² As drafted by the Ministry of Finance, the tax reform bill is intended not to increase overall collection but to simplify it. It includes a drop in the income tax, elimination of exemptions that cost about 25 per cent of all revenue and extension of the value added tax (VAT) to all goods and services, with a VAT reimbursement mechanism for the poorest. Critics argue that although a simplified tax code is urgently needed and a lower income tax could attract investors, the burden would be extended to the basic market basket. In other words, the bill would benefit rich investors while penalising the poor and middle classes. In addition, it is argued that the VAT reimbursement mechanism for the most vulnerable in the population would be difficult to implement. Crisis Group interview, Bogotá, 14 September 2006.

¹⁵³ Conservative and U party legislators have been harsh critics of the bill in the first legislative debates, while Cambio Radical has presented an alternative version.

nearly two generations. The state needs a new strategy that addresses this by demonstrating that the rule of law, social investment and economic opportunity will follow the FARC's departure. None of that was demonstrated in Uribe's first term. The army's human rights record has historically been poor. With a steady drumbeat of new scandals and evidence of human rights abuses, the legitimacy of the armed forces, and therefore the DSP, will come increasingly under question.

A fundamental flaw in the security system is that the police are under the control of the Ministry of Defence. Rivalry between the different arms of the military is marked; between the police and army it is ferocious and has been fed by incidents such as the massacre at Jamundí, where soldiers killed ten policemen from an elite counter-drug operation. The security picture is further complicated by failure to define the responsibilities of the various intelligence services – military, police and DAS – and enforce their cooperation. Drug trafficking-based corruption and ties to paramilitary killings have further tarnished the DAS's record.

Pressure for peace negotiations with the ELN and the FARC is growing but the precedent set by the paramilitaries is not encouraging. The JPL, which offers very generous terms to AUC commanders who have been guilty of some of the most brutal atrocities, is a one-off judicial arrangement that brings Colombia no closer to a lasting peace. The frequent intertwining of paramilitary and official military structures as well as the AUC's penetration of the Congress and local government make those negotiations an unlikely model for talks with the guerrillas. The government wants to ease the restrictions imposed by the Constitutional Court and seems unwilling to expend the resources and political will needed to make even reparations, reinsertion and reconciliation work. If the attorney general does not get full support in at least requiring truth and recovery of illegal assets, impunity is sure to follow.

OAS observers and others report that some AUC criminal organisations have not been dismantled, and new or modified criminal structures are also emerging to take over lucrative illegal businesses the paramilitaries once ran. With mid-level commanders, many of whom did not surrender under the JPL, taking those structures over, the top commanders, who are desperate to avoid extradition, are able to put distance between themselves and their criminal empires, while they benefit from reduced sentences under the new law.¹⁵⁴ The JPL has also sent a message to junior paramilitary commanders, many with no criminal records, that if top bosses can retire with

much of their illegal earnings, they too can aspire to move up the criminal ladder with impunity.¹⁵⁵

Uribe must maintain the gains in security achieved during the first term and on which his popularity is based if he is to be able to advance a different social and reform agenda. Much of the economic situation, particularly foreign investment, is based on the premise that Colombia is becoming safer. But it is evident that military investment alone will not achieve greater long-term security.

All in all Uribe's second term promises to be more difficult than his first. In 2002 he came from nowhere and broke the mould that saw Conservative and Liberal parties dominate the presidency for more than a century. The failed peace process with the FARC under President Pastrana and the growth in guerrilla strength had created a sense of crisis. That feeling is now gone, and Colombians sense matters are under control. However, the situation is still delicate. The apparent drop in coca crop cultivation has been a chimera. In some parts of the country the army has lost the initiative; unless there is a successful peace process, elements in the ELN may throw their lot in with the FARC, strengthening that more dangerous insurgency. Any serious downturn in the economy or significant reduction of U.S. aid could require a cut in the defence budget or demand major tax increases.

Uribe must show his military and constituents that he is serious about human rights and that there is no impunity for criminal action, which requires a different attitude toward the Constitutional Court's decision on the JPL. He needs to consolidate the security gains while seriously pursuing negotiations with the insurgents. The dismantling of the paramilitaries will not produce a lasting drop in violence unless the state can take control of the areas they dominate, attack their criminal enterprises, principally drugs and extortion, and immediately confront any new illegal armed groups. Finally, Uribe's second term needs to provide visible, new rural investment and infrastructure that reaches the poor. There is an opportunity in the next four years to make genuine progress not only towards ending 43 years of conflict but to attack the roots of that conflict. If it is squandered, violence will continue unabated and Colombia's democracy will be shaken.

Bogotá/Brussels, 20 October 2006

¹⁵⁴ Crisis Group interviews, Bogota, 4 August 2006.

¹⁵⁵ Crisis Group interviews, Medellin, 21 September 2006.

APPENDIX A

MAP OF COLOMBIA



APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with nearly 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates thirteen field offices (in Amman, Bishkek, Bogotá, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Pristina, Seoul and Tbilisi), with analysts working in over 50 crisis-affected countries and territories across four continents. In Africa, this includes Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda, the Sahel region, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan,

Myanmar/Burma, Nepal, North Korea, Pakistan, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia, the Andean region and Haiti.

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International Headquarters

149 Avenue Louise, 1050 Brussels, Belgium • Tel: +32 2 502 90 38 • Fax: +32 2 502 50 38
E-mail: brussels@crisisgroup.org

New York Office

420 Lexington Avenue, Suite 2640, New York 10170 • Tel: +1 212 813 0820 • Fax: +1 212 813 0825
E-mail: newyork@crisisgroup.org

Washington Office

1629 K Street, Suite 450, Washington DC 20006 • Tel: +1 202 785 1601 • Fax: +1 202 785 1630
E-mail: washington@crisisgroup.org

London Office

Cambridge House - Fifth Floor, 100 Cambridge Grove, London W6 0LE • Tel: +44 20 7031 0230 • Fax: +44 20 7031 0231
E-mail: london@crisisgroup.org

Moscow Office

ul. Fadeeva 6-1-32 - Moscow 125047 Russia • Tel/Fax: +7 095 251 44 85
E-mail: moscow@crisisgroup.org

Regional & Local Field Offices

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