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## COLOMBIA: WILL URIBE'S HONEYMOON LAST?

### I. OVERVIEW

The first hundred days have come and gone, and Colombians continue to hold high hopes that President Álvaro Uribe will lead the country out of its entrenched crisis by strengthening security and resolving the decades-long civil war. This is underscored by an approval rating that has risen during his first four months in office from 69 per cent to 75 per cent. Despite the all-too-usual bombings, kidnappings and firefights, a majority of respondents say things are getting better, a decided reversal from earlier polls. For the first time in recent memory, Colombians said their “government was governing”.<sup>1</sup>

The new government's agenda has three pillars:

- improving security across the country by stepping up pressure on the irregular armed groups while devising ways to encourage them to lay down their arms and demobilise;
- modernising the state apparatus and battling corruption; and
- balancing the budget while reviving economic growth and reducing unemployment.<sup>2</sup>

Each is a stern test in its own right; achieving all three simultaneously will require a Herculean effort, expenditure of sizeable political capital and a sure sense of priorities and timing.

President Uribe, who ran on a security platform,<sup>3</sup> has appointed a team that is generally technocratic and has received high marks from domestic and international observers. He has begun with some sweeping steps that, although they have not yet changed the fundamental balance of power vis-à-vis the rebels, have improved the sense of public safety. By pushing for increased war taxes and a major mobilisation against insurgents, he has embraced the strategy that advances on the battlefield can produce advances at the negotiating table.

Most Colombians continue to demand that the government use its legitimate powers to counter daily threats of abduction, extortion and death at the hands of the irregular armed groups, drug mafia and organised crime. However, Colombia's crisis runs far deeper than the battlefield. Gross Domestic Product (GDP) per capita fell by 5.8 per cent in 1999, increased by a meagre 0.9 per cent in 2000 and fell again by 0.3 per cent in 2001. Half the economically active population is either unemployed or underemployed, and more than 54 per cent – close to 80 per cent in rural areas – are below the poverty line. More than two million remain internally displaced, 200,000 more during the first six months of this year alone.<sup>4</sup>

These circumstances confront the Uribe administration with competing pressures. The economic and social crisis puts pressure on the government to act decisively to create jobs and provide services.<sup>5</sup> However, only significantly

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<sup>1</sup> See *Semana*, 30 September-7 October 2002, pp. 34-36 and 11-18 November 2002, pp. 32-36. The ratings compare favourably to those obtained by his predecessors, Ernesto Samper (1994-1998) and Andrés Pastrana (1998-2002), at the same mid-November moment of their administrations: 69 and 38 per cent, respectively.

<sup>2</sup> See President Álvaro Uribe's inaugural address, “Retomemos el lazo unificador de la ley, la autoridad democrática, la libertad y la justicia social” (Bogotá, 7 August 2002).

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<sup>3</sup> See ICG Latin America briefing, *The Stakes in the Presidential Election in Colombia*, 22 May 2002.

<sup>4</sup> ECLAC, *Balance preliminar*, op. cit. See also, World Bank, “Poverty in Latin America and the Caribbean in the 1990's”, <http://www.iadb.org/sds/doc/Wbpovestimates.pdf>.P.47; [http://www.dnp.gov.co/ArchivosWeb/Direccion-Desarrollo\\_Social/Indicador.../I010105.ht](http://www.dnp.gov.co/ArchivosWeb/Direccion-Desarrollo_Social/Indicador.../I010105.ht). See also UNHCR Press Release, “Lubbers expresses concern over worsening humanitarian situation in Colombia”, 13 November 2002.

<sup>5</sup> The November 2002 Gallup Poll revealed that approval of the Uribe administration's management of the economy,

greater tax revenues and external aid will permit needed public investment in social, humanitarian and economic programs, without restricting the government's ability to build its security forces. While it is impossible to achieve greater security and state presence across the country without sufficient funds, it is equally unwise to reduce social spending in the face of economic and social misery. The administration's economic reform plans have already lagged somewhat, and they will be implemented more slowly because of both their complexity and resistance from influential players such as the trade unions.

Colombia's future will rest on the ability of the Uribe administration to balance security progress, substantial political reform and at least moderate economic growth that also improves the social safety net. Security and peace must come first on the agenda but how that is done — whether human rights are respected — is crucial. Domestic and international human rights groups maintain a drumbeat of criticism, particularly against the initial emergency orders giving the military powers to detain without court order in selected regions and creating a network of citizen informants, and the alleged climb-down on paramilitary prosecutions by the independent attorney general. The basic rationale for national sacrifice could well be lost if short-term military concerns dominate decision-making to the exclusion of competing priorities like visibly extending state services in rural Colombia.

## II. SETTING THE TONE

President Uribe moved quickly in his first week, declaring a state of emergency, issuing decrees that increased the authority of the security forces, imposing a war tax and proposing a major referendum on political reforms to the Congress.<sup>6</sup> A

unemployment and living costs was only 48, 33 and 32 per cent, respectively. *Semana*, 11-18 November 2002, p. 34.

<sup>6</sup> Presidency of the Republic, Decree N°1837 of 2002, 11 August 2002. Ministry of the Interior, Decree N°2002 of 2002 (Bogotá, s.d). Under Decree 2002, Colombia's law enforcement and military forces are empowered, inter alia, to arrest without warrants, intercept and register telephone calls on the basis of a warrant, and inspect and search private premises with and without warrants. The decree further stipulates the establishment of "Rehabilitation and Consolidation Zones" in high crime and conflict areas. A military officer will be in charge of coordinating the actions

proposed expansion of the armed forces and police sent the message that the armed groups would be put under more pressure than in the previous four years. Defence analysts have applauded the president's call for the military to take the initiative, while the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) have denounced his "war policy".<sup>7</sup> However, those groups and the paramilitary Self-Defence Forces of Colombia (AUC) still can strike with relative impunity throughout the country. Indeed, this capacity was demonstrated by mortar attacks in Bogotá on inauguration day, as well as bomb and rocket attacks in communities where the President has travelled in recent weeks and by the kidnapping of Bishop Jorge Enrique Jiménez, president of the Latin American Episcopal Movement, in mid-November 2002.<sup>8</sup>

Uribe has been careful to manage expectations. Since taking office on 7 August 2002, he has warned repeatedly that there is no quick answer to Colombia's immense problems.<sup>9</sup> "I do not want to give interviews about the first 100 days", he said in November, "because I feel that there is not much to show".<sup>10</sup> Yet, as the polls reveal, he has managed to convey a sense of purpose and direction.

Presidential appointments have largely generated a positive reaction because they appeared driven less by politics than professional competence. Several senior appointees have either supported or worked for other candidates or served in earlier administrations. Minister of Defence Martha Lucia Ramírez and Foreign Minister Carolina Barco had distinguished themselves in the public sector, and the leader of the new economic team, Roberto Junguito, is a prominent economist who most recently served as Colombia's representative to the International Monetary Fund (IMF). Other ministers also are experienced in government, international organisations or the private sector and, like Minister of Health and Work Juan Luis Londoño, are

of all law enforcement and security agencies present in the zones. Also see ICG Latin America Report N°1, *Colombia's Elusive Quest for Peace*, 26 March 2002.

<sup>7</sup> ICG interviews Bogota, Washington, September-December 2002; also [www.farc-ep.org](http://www.farc-ep.org); [www.eln-voces.com](http://www.eln-voces.com).

<sup>8</sup> [http://www.philly.com/mld/inquirer/news/special\\_packages/colombia/](http://www.philly.com/mld/inquirer/news/special_packages/colombia/); <http://www.hchr.org.co/comunic/comuni02/comunicados2002.html#cp0233>; *El Tiempo*, 12 November 2002, p.1. Bishop Jimenez was rescued five days later.

<sup>9</sup> *Semana*, 12-19 August 2002, p. 34.

<sup>10</sup> *Cambio*, 11-18 November 2002, p. 17.

perceived as experts. The most controversial choice, the outspoken, highly successful lawyer Fernando Londoño as Minister of Interior and Justice, periodically must be coaxed back from his less judicious statements but is clearly someone who is making things happen and is effectively Uribe's chief adviser.<sup>11</sup>

Uribe has demonstratively pushed himself and his cabinet to make the point that sacrifices will be required by all. Press photographs of exhausted ministers literally falling asleep on their feet during endless presidential-led sessions of the new Communal Councils of Government in distant corners of Colombia and stories about drastic weight and hair losses among officials have become part of political folklore.<sup>12</sup> Debate in parliament, especially in the senate, is more professional, inspired perhaps in part by the government's threat to fine parliamentarians who fail to show up for work.<sup>13</sup> Sharp verbal exchanges between Uribe's Interior Minister, and knowledgeable and opposing senators, such as former Constitutional Court judge Carlos Gaviria, have provided a colourful background to the increased pace and performance in the Congress.<sup>14</sup>

Uribe's dominating leadership style has, however, given rise to concerns of micro-management of both civilian and military operational details.<sup>15</sup> The Communal Councils of Government also have been criticised for encroaching on the jurisdiction of elected mayors and governors. While this "presidentialist" style has earned Uribe much praise, it also raises question about its sustainability. He will need to delegate more if his efforts are to prove ultimately successful.

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<sup>11</sup> ICG interviews Bogotá and Washington, September-December 2002.

<sup>12</sup> The Communal Councils of Government are meetings of citizens, mayors and councillors of a Colombian town or municipality that are chaired by the president, who is accompanied by some of his ministers. When a request appears reasonable, such as finishing construction of a road, the head of state gives the order to one of his ministers to take action. See also, *Cambio*, 11-18 November 2002, pp. 34-35; *Semana*, 4-11 November 2002, pp. 38-39.

<sup>13</sup> ICG interview, Bogotá, 27 November 2002.

<sup>14</sup> *Semana*, 14-21 October 2002, p. 68.

<sup>15</sup> Hernando Gómez, "Presidencia personal", in *Semana*, 11-18 November 2002, p. 15.

### III. KEY SECURITY CHALLENGES

The FARC, ELN and paramilitary forces have grown in both numbers and firepower during the past decade a growth that with respect to the FARC and AUC, has largely been fuelled by the massive cash flow derived from their deepening involvement in illegal drugs. Government peace initiatives during the last two decades have mostly failed for a range of reasons, including inability to prevent paramilitary attacks on ex-combatants, a lack of basic economic and political reforms and, more recently, because achieving a lasting ceasefire has proved maddeningly elusive.<sup>16</sup>

The Uribe administration's decision to make security its first priority makes sense to most observers, as long as this focus does not ride roughshod over human rights or preclude a negotiated settlement. Its not yet released National Security Strategy apparently reiterates a broad-based approach that touches on all these subjects. The test will be whether it becomes more than a statement. The negotiations with the ELN in Cuba and willingness to explore a greater role for the UN in peace talks with the FARC indicate a far more nuanced policy than anticipated. The recent announcement of a ceasefire, however conditional, by most of the AUC renews questions about the relationship between the armed forces and paramilitaries. Nevertheless, it could facilitate the peace process with the ELN and FARC by making it more likely the government could deliver in a peace deal on security guarantees for the leftist guerrillas.

#### A. ADJUSTING THE STATE'S BATTLE ORDER

The flagships of the new "democratic security policy" include: declaration of a state of public unrest; a one-time "security tax"; establishment of Rehabilitation and Consolidation Zones (RCZs); training of highly mobile elite forces; development of peasant soldiers (*soldados campesinos*); an extensive network of civilian informants; and a beefed-up military and police presence along the most important highways.

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<sup>16</sup> See ICG Report, *Colombia's Elusive Quest for Peace*, op. cit.

On 11 August 2002, the government, citing article 213 of the political constitution, imposed a state of public unrest.<sup>17</sup> This emergency decree was renewed in November 2002 for an additional 90 days after a constitutionally required favourable vote by the Senate.<sup>18</sup> In its original form, it granted the armed forces power to detain individuals, search private premises and intercept telephone calls without a judicial warrant. It further established RCZs, geographic areas under the command of a military officer empowered to impose curfews and restrict the movement of residents and the legal carrying of arms.<sup>19</sup> Thus far, 27 municipalities in the three departments (Arauca, Bolívar and Sucre) have been declared RCZs. The government has announced that others will follow once the measure has proved its effectiveness.

In late November 2002 the Constitutional Court did not challenge the RCZ as such but ruled some of the sweeping powers unconstitutional, particularly the authorisation for military searches without a warrant, as well as the registration by the armed forces of citizens in the RCZs, and restrictions on domestic or foreign journalists.<sup>20</sup> President Uribe said he would abide by the ruling and appeared pleased that the RCZs “essentially” had been upheld.<sup>21</sup> Under the Constitution, the administration can prolong the state of public unrest for a third and last time in February 2003, but only if the Senate agrees. It considers the RCZs critical and is not pleased to have the Senate in a position to veto them. It is currently considering what combination of legislation, executive edicts and constitutional amendments could keep the state of emergency in effect regardless of the Senate’s stance.

On 12 August 2002, the Uribe administration imposed a new, one-time “democratic security tax” under which roughly 420,000 Colombian citizens and firms are expected to pay 1.2 per cent of the value of their liquid assets.<sup>22</sup> The response has generally been supportive. According to the Colombian National Tax and Customs Department,

revenues will be U.S.\$200 million higher than expected, probably close to U.S.\$1 billion.<sup>23</sup> Up to 60 per cent will be used to fill in the 2002 and 2003 defence budget, including purchase of ammunition and food, maintenance of aircraft, armament and communication systems. The remaining 40 per cent will go to increasing troop levels.<sup>24</sup> However, these funds still fall short of what is needed to fulfil Uribe’s pledge to double both combat troops and police.

For such force expansion to be realistic and for the administration to avoid draconian cuts in social services, the war tax will need to be more than one-time. In fact, it appears that an extension has already been decided, though the government announced a possible alternative in December 2002 – that if future tax revenues are insufficient, purchase of “war bonds” would be made mandatory. Details of any such plan remained sketchy.<sup>25</sup>

The government’s Attack Plan 2003 (*Plan de Choque 2003*) advocates deploying newly trained commando-style forces to go after insurgent and paramilitary leaders across the country. Additional elite units, such as the Urban Anti-terrorist Special Forces (*Agrupación de Fuerzas Especiales Antiterroristas Urbanas*), trained by the U.S. and European countries including the UK, will start operating in urban centres.<sup>26</sup> Rapid deployment forces are to be increased by adding one mobile brigade of up to 5,000 soldiers to every army division. To increase control in rural areas, the government has begun to recruit and train “peasant soldiers”, paid volunteers who will receive basic military instruction at army sites. Once this is completed, they will return home. They will not live in barracks or keep their weapons overnight but are meant to help hold ground after regular and special forces have “cleared” an area of insurgents and paramilitaries.<sup>27</sup>

By March 2003, the government hopes to have 15,000 peasant soldiers, although fewer than 500 were in the program as of mid December 2002. The government faces sharp questioning about this

<sup>17</sup> Presidencia de la República, *Decreto no. 1837 de 2002* (Bogotá, 11 August 2002)

<sup>18</sup> Constitución política de Colombia, *Article 213*.

<sup>19</sup> Ministerio del Interior, *Decreto no. 2002 del 2002* (Bogotá, s.d.).

<sup>20</sup> *El Tiempo*, 27 November 2002, p. 2/9.

<sup>21</sup> *Caracol Colombia*, “Presidente Uribe anuncia decretos ajustados a la Constitución”, 27 November 2002.

<sup>22</sup> Presidencia de la República, *Decreto no. 1838: Impuesto especial para seguridad democrática* (Bogotá, 12 August 2002).

<sup>23</sup> *Caracol Colombia*, “Impuesto al Patrimonio dejará mucha plata, calcula el gobierno”, 12 November 2002.

<sup>24</sup> *Semana*, 2-9 September 2002, pp. 20-25.

<sup>25</sup> ICG interview Washington; <http://www.presidencia.gov.co/cne/diciembre/04/02122002.htm>

<sup>26</sup> *Semana*, op. cit.

<sup>27</sup> *Ibid.*, p. 21.

program with critics suggesting that weakly armed and poorly trained peasants will be an easy target for the FARC, ELN or AUC once regular troops have departed. Others question encouraging more Colombians to take up arms in a country already deeply devastated by violence.

Defensive operations along highways and recent expanded reporting on army victories and the killing or capturing of insurgent leaders have given the public the impression that the security situation has demonstrably improved. During Uribe's first four months, strategic points such as bridges and water reservoirs have been fortified. "Operación Colombia Viva" deployed large numbers of troops, light tanks and armoured vehicles along main highways. Vehicle circulation has increased, as citizens feel safer to drive out of the cities. How long this operation can be kept up, however, is a question. Once fighting with the FARC intensifies, the army may be unable to continue it. The same may be asked about troops undergoing U.S. army training who are to protect the Caño Limón-Coveñas Occidental Petroleum pipeline, although the \$98 million the U.S. has allocated for pipeline protection may permit dedication of a special contingent.

According to one close observer of the military, the security initiatives have borne some favourable results.<sup>28</sup> Large amounts of weapons and explosives have been seized, some militia have been arrested or driven out of strongholds in urban operations in Medellín and Bogotá, and irregular forces have suffered significant losses. Colombian military sources have indicated, in statistics that some have questioned,<sup>29</sup> that during 2002, more than 1,400 insurgents and 140 paramilitaries have been killed in combat, compared to some 960 insurgents and 80 paramilitaries killed in 2001.<sup>30</sup> "Operación Orión" in a Medellín neighbourhood appears also to have been more successful than a similar operation there in May 2002. More weapons and explosives were taken, more militia were captured and charged, and the troops remained longer in the area<sup>31</sup>

Yet, it is premature to suggest that the military balance has fundamentally shifted. Efforts against paramilitary strongholds have remained largely tepid, once again raising suspicions of special relationships.<sup>32</sup> It appears that the FARC has withdrawn into remote areas or gone undercover in the RCZs, waiting for the appropriate time to counterattack.<sup>33</sup> Guerrilla infiltration in cities continues, and a number of car bombs have been detonated in Bogotá and elsewhere. Twelve mayors and 59 city councillors have been murdered this year after the FARC threatened to kill all local officials.<sup>34</sup>

The establishment on 8 August 2002 of a government network of informants is meant to remedy a chronic lack of reliable information about the irregular armed groups. Civilians who give information leading to the capture of those responsible for terrorist attacks, killings and massacres are to receive cash rewards. The program did appear to have some part in the freeing of Monsignor Jiménez from FARC (local farmers provided information, and the army responded quickly). However, it is controversial. Domestic and international observers have pointed out that in the past security forces were often warned about guerrilla attacks, paramilitary massacres or other activities but simply arrived late, or not at all.<sup>35</sup> Further, there is some evidence civilian informants are already seen as viable military targets by irregular armed groups.<sup>36</sup> There also are fears that individuals will use the program simply to tar political foes, critics or general adversaries with the broad brush of terrorism.<sup>37</sup>

## B. SAFEGUARDING FUNDAMENTAL RIGHTS AND LIBERTIES

President Uribe's "democratic security policy" has generated considerable concern from human rights

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<sup>28</sup> ICG interview, Bogotá, 2 December 2002.

<sup>29</sup> <http://old.clarin.com/diario/2002/09/29/i-03710.htm>.

<sup>30</sup> Figures provided by the General Command of the Colombian armed forces.

<sup>31</sup> Ministerio de Defensa Nacional, "Ejército presentó balance de la operación Orión en Medellín" (Bogotá, 20 October 2002) and "Balance de operación Mariscal en Medellín" (Bogotá, 22 May 2002).

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<sup>32</sup> ICG interview, Bogotá, 22 October 2002.

<sup>33</sup> *El Tiempo*, 3 December 2002, p. 1/9.

<sup>34</sup> *El Tiempo*, 4 December 2002, p. 1/5.

<sup>35</sup> One of the most notorious cases is the town of Bojayá. In May 2002, its inhabitants were caught in the crossfire between FARC and paramilitary units. 120 civilians were killed by FARC mortar fire. The army said that owing to the strong rainfalls it had been unable to send in helicopter-borne troops in time. One wonders, however, why paramilitary chief "El Alemán" was able to land his small airplane on an airstrip close by, in spite of the floods.

<sup>36</sup> *El Tiempo*, 9 November 2002, p. 1/3.

<sup>37</sup> ICG interviews with human rights groups, Bogotá, September-October 2002.

organisations and others that the emergency legislation and new security measures, in particular the RCZs, are unjustifiable restrictions and a violation of basic rights. More broadly, some have contended that his government will not respect international conventions on human rights and humanitarian law, and that his approach will inevitably lead to abuses such as monitoring of political opponents, forced internal displacement and an intensified conflict.

A report by a Colombian human rights group, covering 7 August 2002 to 7 October 2002, presents evidence of 865 cases of human rights abuses, violations of international humanitarian law, politically motivated violence and armed operations. It also raised the spectre of persecution of the "collective internal enemy" in describing an incident of massive and arbitrary detention and registration of citizens in the Saravena municipal stadium (in one of the three RCZs). Further, according to the report, the government and army are still not acting decisively against the paramilitaries, and in the RCZs, a kind of cohabitation appears to exist. Paramilitaries are blamed for the majority of human rights and humanitarian law violations in the report.<sup>38</sup>

A November 2002 Human Rights Watch report sharply criticised the Attorney General's office, claiming that the new occupant, Luis Camilo Osorio, has failed to investigate and prosecute human rights abuses by those affiliated with the state.<sup>39</sup> The director and former director of the National Human Rights Unit within the Attorney General's office allegedly were forced to resign, as were more than two dozen other officials working on cases involving army and police officers, paramilitaries and insurgents. The scope of activities of the office – generally perceived to have performed well in the past – was curtailed. For example, forced disappearance, a crime that is by definition

committed by state agents, is now investigated by the government unit dealing with kidnapping.

Adding to the concern was a decision by the Prosecutor General and the Attorney General, both formally independent of the executive, to drop charges against a prominent landowner, Carlos Arturo Marulanda, and a retired general Rito Alejo Del Rio who has been a Uribe adviser. Although the Attorney General and Prosecutor General were not appointed by Uribe, the administration's silence on the decision to drop the charges has elevated civil society concern.<sup>40</sup>

In early December, the Senate approved a bill to restructure the powers of the Attorney General as part of a fundamental reform – to take effect in January 2005 – that will further shift the criminal justice system from inquisitory to accusatory.<sup>41</sup> The challenge will be to match this restructuring of the Attorney General's work with a modernisation of the court system, including more judges, and extend the rule of law to all parts of the country.<sup>42</sup>

Many diplomats, international organisations and human rights activists rightly demand the government's full respect and compliance with the constitution, human rights and the rules of democracy as it seeks to enhance security. U.S. Secretary of State Colin Powell asserted publicly and privately during his December 2002 trip that "There can be no tolerance for abuse of human rights".<sup>43</sup> He has been criticised as not tough enough about human rights conditions on U.S. military aid but his statement echoes those of members of Congress and the concerns etched into foreign aid conditionality. Evidence of the impact of those provisions came recently when US Ambassador Anne Patterson announced the US would halt aid to

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<sup>38</sup> Cinep, Justicia y Paz, Cohdes & Escuela Nacional Sindical, *¿Contra quién es la guerra? Cien días críticos para los derechos humanos* (Bogotá, s.d.). A government statement released on 10 December assigned authorship for the bulk of 2002 violations to the FARC and the ELN with the AUC responsible for one-sixth of the total. [www.presidencia.gov.co/cne/iciembre/10/16122002.htm](http://www.presidencia.gov.co/cne/iciembre/10/16122002.htm).

<sup>39</sup> Human Rights Watch, "A Wrong Turn: The Record of the Colombia Attorney General's Office", Washington, London & Brussels, November 2002. Also, ICG interview, Bogotá, 9 December 2002.

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<sup>40</sup> Ibid.

<sup>41</sup> The shift from an inquisitory to accusatory criminal justice system is viewed by law reform advocates as a way to provide for greater fairness and transparency since the Attorney General will be limited to investigation and prosecution, while judges will decide on charges. The new law also provides for oral judicial procedures rather than submission of confidential filings and so should increase public confidence. The law retains the Attorney General's authority to initiate or drop investigations at will and, in certain circumstances, to order searches and seizures with judicial review rather than prior judicial approval.

<sup>42</sup> [http://el\\_tiempo.terra.com.co/judi/2002-12-12/articulo-web-nota\\_interior-226774.html](http://el_tiempo.terra.com.co/judi/2002-12-12/articulo-web-nota_interior-226774.html).

<sup>43</sup> <http://usinfo.state.gov/admin/011/lef301.htm>

the First Air Combat Command of the Colombian air force because of the latter's failure to support an investigation of those responsible for bombing civilians in 1998.<sup>44</sup>

Non-governmental organisations (NGOs), such as the Consultoría para los Derechos Humanos y el Desplazamiento, Human Rights Watch and the Center for International Policy, as well as former UN High Commissioner for Human Rights Mary Robinson have expressed concern over the Uribe administration's security policy, warning that the informants network and, more generally, tough military action against insurgents and tacit partnership with paramilitaries will exacerbate human rights violations.<sup>45</sup> The 27 November 2002 Constitutional Court decision made clear that some of those concerns are well founded. Its decision essentially voided some powers granted to the military within special "war zones" and ruled that others required legislative actions or constitutional reform.<sup>46</sup>

The Uribe administration appears to take these concerns seriously. On numerous occasions, the president, Minister of Defence Martha Ramírez and Minister of the Interior and Justice Londoño have stressed that the security policy is "democratic" and aims at "guaranteeing the rights and liberties of all citizens and the integrity of the national territory by strengthening the rule of law and the state's dissuasive capacity".<sup>47</sup> Uribe recently emphasised that his concept of "democratic security" has nothing in common with those of the military-authoritarian regimes in Latin America during the 1970s and 1980s. He insists that his government is committed

to freedom of expression.<sup>48</sup> Vice President Francisco Santos has a long history of human rights activism and has an ongoing dialogue with human rights groups.

What is lacking and would ease the criticism of most human rights groups would be actions to implement effective monitoring of the security forces, to penalise collaboration with paramilitaries, to ensure respect for constitutional safeguards (like habeas corpus) and to defend institutions such as the Ombudsman. Uribe would be well advised to engage the human rights community in systematic dialogue and practice transparency, for example by highlighting the grant of unrestricted access in the RCZs to the UN High Commissioner for Human Rights. That office's plan to increase its scrutiny of the RCZs and to open a third sub-office in 2003 very near to the RCZs should be encouraged. Strong consideration should be given to establishing permanent UNHCHR offices within the zones.

Human rights is not an abstract concern. Senate rejection of the administration's proposal to include closure of local ombudsman offices in the political reform package that is to be put before an upcoming referendum makes clear that the legislature is not willing to give the government *carte blanche*.<sup>49</sup>

### C. NEGOTIATIONS WITH THE INSURGENTS AND PARAMILITARIES

The negotiations issue has been handled with great secrecy. From day one, President Uribe set out clear markers and, breaking with the past, said the armed groups would have to agree to ceasefires, end kidnapping and cut their ties to the drug trade. His ability to negotiate with armed groups, offer concessions, establish ceasefire or demilitarised zones – although this time with judicial authorities maintained within the zones – was extended in early December by Congressional approval of a new Public Order Law. The previous law, known as Law 418, would have expired on 23 December.<sup>50</sup>

<sup>44</sup> Human Rights Watch, "Colombia: Aid Suspension Decision Welcomed", New York, 21 November 2002.

<sup>45</sup> ICG interview, Bogotá, 22 October 2002; *Caracol Colombia*, "Gobierno y militares reafirman respeto a DDHH ante Human Rights Watch", 8 November 2002; *El Colombiano*, 18 April 2002; Adam Isacson, "Colombia's Álvaro Uribe – The first 100 days", 18 November 2002, (unpublished paper).

<sup>46</sup> Reuters, 27 November 2002, "Court throws out Colombian Army's emergency powers".

<sup>47</sup> Ministry of National Defence, "Política de defensa y seguridad democrática", draft paper (Bogotá, s.d), p. 1. See also "Palabras del Presidente Uribe en seminario sobre seguridad y libertades individuales", in <http://www.presidencia.gov.co>; "Seis líneas de trabajo para recuperar la seguridad y el orden", in Presidencia de la República, *Colombia: seguridad democrática* (Bogotá, 11 September 2002), pp. 63-66.

<sup>48</sup> "Carta del Presidente Uribe a las ONGs" (Bogotá, s.d.).

<sup>49</sup> [http://eltiempo.terra.com.co/poli/2002-12-06/articulo-web-nota\\_interior-221233.html](http://eltiempo.terra.com.co/poli/2002-12-06/articulo-web-nota_interior-221233.html).

<sup>50</sup> [http://eltiempo.terra.com.co/coar/noticias/articulo-web-nota\\_interior-226577.html](http://eltiempo.terra.com.co/coar/noticias/articulo-web-nota_interior-226577.html).

## 1. The ELN

The only early positive response to Uribe's invitation to negotiate came from the ELN, with which exploratory conversations were started in Cuba. According to ICG sources, the government has presented a proposal that conditions substantive negotiations upon a ceasefire.<sup>51</sup> ELN spokesman Ramiro Vargas stated recently that a resumption of negotiations was out of the question because the Uribe administration has given priority to the military struggle. The ELN was not prepared to concede a truce or give up its demand of a Zone of Encounter (ZOE) where a National Convention (NC) could meet and a peace accord could be forged. Nevertheless, three sets of talks were held in Cuba, indicating some readiness on the part of the ELN to explore the potential for agreement.<sup>52</sup>

ELN statements issued during late 2002 have gone to unusual lengths to criticise cooperation between military and paramilitary units, including warning against the possibility that paramilitaries will be transformed into peasant soldiers.<sup>53</sup> The ELN continues to be under heavy pressure from the paramilitaries. High Commissioner for Peace Luis Restrepo has met with imprisoned ELN leaders Francisco Galán and Felipe Torres in Itagüí, Antioquia. The media reported that the talks centred on the Cuba conversations and the announcement by the commander of the ELN's Carlos Alirio Buitrago Front of plans to resume negotiations on humanitarian issues with 23 mayors in Antioquia Department, which broke down in November 2001.<sup>54</sup>

<sup>51</sup> ICG interview, Bogotá, 9 December 2002.

<sup>52</sup> Also see ICG Latin America Report No. 2, *Colombia: The Prospects for Peace with the ELN*, 4 October 2002. The ICG report recommended a three-stage ELN negotiation in which the UN would be considered for a facilitation role, particularly if the early talks deadlocked. This process would include: "(1) establishing mutual confidence and reaching a bilateral ceasefire, the cessation of hostilities and humanitarian accords; (2) negotiating a newly defined and focused peace agenda; and (3) concluding negotiations with a final peace accord", all with third party facilitation and international verification and assistance.

<sup>53</sup> *El Tiempo*, 6 December 2002, p. 1/4; ELN Dirección Frente de Guerra Noroccidental, *Nuevos combates en una guerra justa: área cafetera*, 16 October 2002; Manuel Ramy, "Entrevista al Comandante Ramiro Vargas del ELN", in *Radio Progreso*, 30 September 2002.

<sup>54</sup> *Caracol Colombia*, "Gobierno conversa con ELN en Itagüí", 26 November 2002; *VivaFM*, "ELN quiere reanudar acercamientos con alcaldes de Antioquia", 29 November 2002.

However, the administration does not favour regional negotiations, and it appears unlikely that these could pave the way for broader peace talks with the ELN.<sup>55</sup>

A joint statement signed by Restrepo for the government and Vargas for the ELN Central Command was issued on 29 November 2002. It simply asserted that the third exploratory meeting in Havana had been held "to search for an exit from the conflict in which the country lives".<sup>56</sup> However, following the announcements of AUC- government meetings and the offer of an AUC ceasefire, the ELN claimed on 6 December 2002 that there "is no process of negotiation", and that despite three meetings there were "not any results". It blamed Uribe's policies for the lack of progress and said the time was not ripe. The ELN has also suggested that the government was talking with it as cover for the less than confrontational sessions with the AUC.<sup>57</sup>

The ELN's leadership remains split over negotiations. Some fear consolidation into a ceasefire zone would make them easy targets for the AUC. There is a basic lack of trust with the government.<sup>58</sup> International observers point to the apparent deadlock as another indication of the need for third party facilitation (the UN was initially given license only to test the possibility of talks with the FARC).<sup>59</sup> Initially, the government asserted it would deal with the ELN in direct talks, with only the Cuban government hosting and, in some sense, assisting the process, but without a formal third party facilitator. However, faced with the current stalemate, the government explored which neutral third parties, international organisations or friendly governments could help break the deadlock, and finally asked the UN to consider expanding its facilitation role to include the ELN.<sup>60</sup>

## 2. The AUC

On 25 November 2002, the government confirmed that it is evaluating the possibility of negotiations

<sup>55</sup> *Caracol Colombia*, "Gobierno conversa con ELN en Itagüí", 26 November 2002; *VivaFM*, "ELN quiere reanudar acercamientos con alcaldes de Antioquia", 29 November 2002.

<sup>56</sup> <http://www.eln-voces.com>

<sup>57</sup> <http://www.reforma.com/internacional/articulo/251589/>

<sup>58</sup> ICG interviews, Bogotá, October 2002. Also see ICG Report, *The Prospects for Peace with the ELN*, op. cit.

<sup>59</sup> ICG interview, December 2002.

<sup>60</sup> ICG interviews, Bogotá, 9 December 2002; Washington, 11 December; New York, 13 December.



with the paramilitary AUC. This followed the announcement by Minister Londoño that meetings with paramilitary leaders had been arranged with the Catholic Church's aid. It appears that AUC thinking is influenced by recent U.S. indictments of Carlos Castaño, Salvatore Mancuso and a handful of other senior paramilitary officials for drug trafficking, the possibility of Colombian law enforcement and military units being assigned specific responsibility for pursuing AUC leaders, and military pressure, from both the FARC and, however inconsistently, the Colombian military. It may also be affected by the high priority the Uribe administration has placed on improving security throughout the country, which undercuts the AUC's self-justification for its own existence.<sup>61</sup>

On 29 November the AUC announced an indefinite unilateral ceasefire from 1 December, although it attached some conditions.<sup>62</sup> However, at least two of the AUC contingents representing more than one thousand troops have only committed themselves to a Christmas truce. One AUC demand is that the government designate it as an "actor of the political and armed conflict of Colombia", rather than a criminal or terrorist organisation. This issue may be mooted by congressional passage of a new public order law which permits the government to enter negotiations with irregular armed groups, even if those groups are not given political status.<sup>63</sup> The AUC has also called for all legal actions against it to be suspended and its imprisoned members to be released. Given the links between the AUC and the military, the dynamic of any talks with the group will be quite different than with the FARC or the ELN, fundamentally because the AUC is not attacking the government or army.

The notion of an unconditional amnesty for the paramilitary has provoked sharp criticism. Unanswered questions include possible differences with regard to how leaders and rank and file fighters will be regarded by the law, where the AUC might congregate under a ceasefire and how it would be protected at such sites. The timetable for disarmament and demobilisation also has to be

developed. No one wants the same prolonged negotiating process that occurred with the FARC during the Pastrana administration.

Some of this caution was reflected by U.S. Secretary of State Powell during his December 2002 visit:

It is a long way from being an actual ceasefire and it is a long way from leading to discussions that could lead to a solution to the problem of paramilitaries... And with respect to legal matters, indictments and extradition requests relating to leaders of the AUC, those indictments remain in place and of course the extradition requests remain in place, and there was no discussion today of removing such a request or taking action within the American judicial system to eliminate any indictments. These gentlemen have much to account for, not only under U.S. law but under Colombian law, as well.<sup>64</sup>

The United Nations also has been less than enthusiastic about entering into the process with the AUC, given the sordid record of the paramilitary, the inherent difficulties of isolating the paramilitary from the conflict, and the potential added difficulties for fulfilling its good offices role with the FARC and ELN. It has not made any formal response to the request for its participation from AUC commander Castaño, who on 11 December specifically asked in writing that the UN Secretary General's Special Adviser for Colombia, James LeMoyne, supervise the ceasefire and monitor negotiations with the Uribe government. Until this point, the only facilitator has been the Catholic Church. The UN's response thus far has been to take note of the letter and indicate it is being studied.<sup>65</sup>

It remains to be seen if the talks with the AUC will have real substance or are merely an effort to deflect legal and military action against them. However, all efforts that carry the possibility of peace deserve full exploration. There would be a clear benefit in eliminating an illegal armed group that is heavily linked to the drug trade and has caused much suffering. If this were managed well, it could also potentially enhance the possibility of safeguarding future ELN and FARC ceasefires.

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<sup>61</sup> ICG interviews Bogota, Washington, October-December 2002.

<sup>62</sup> The AUC announced a truce for the Christmas period in 2001. ICG interview, Bogota, October 2002, <http://www.state.gov/secretary/rm/2002/15704.htm>.

<sup>63</sup> [http://eltiempo.terra.com.co/coar/noticias/articulo-web-nota\\_interior-226577.html](http://eltiempo.terra.com.co/coar/noticias/articulo-web-nota_interior-226577.html).

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<sup>64</sup> <http://www.state.gov/secretary/rm/2002/15704.htm>.

<sup>65</sup> [http://story.news.yahoo.com/news?tmpl=story&u=/ap/20021212/ap\\_wo\\_en\\_po/la\\_gen\\_colombia\\_conflict\\_2](http://story.news.yahoo.com/news?tmpl=story&u=/ap/20021212/ap_wo_en_po/la_gen_colombia_conflict_2).

### 3. The FARC

At the start of the Uribe Administration, the FARC announced its refusal to negotiate on the basis of the conditions of prior ceasefire, end to kidnappings and release of all kidnap victims and insisted on the re-establishment of a demilitarised zone (DMZ) within two Colombian departments.<sup>66</sup> Virtually every sector in Colombia has been critical of the way in which the FARC misused the original DMZ concept during the Pastrana administration, not only initiating violent actions from within the zone and expanding or protecting coca cultivation there, but also using it as a sanctuary in which to hold kidnap victims. In late November, the FARC once again attacked the government's policy as one of war, and it has been reluctant even to open discussions with the designated UN intermediary. In recent weeks, it also has stepped up its urban bombing campaign, aimed at President Uribe, members of the Colombian Congress, and the mayor of Bogotá.<sup>67</sup>

The major focus of government engagement with the FARC during these first months has been on exploring the possibility for a humanitarian accord that would include but not be limited to the release of kidnap victims. Interior Minister Londoño also mentioned the possibility, with France's help, of discussions in Venezuela on a humanitarian accord. However, he also stressed that the government continued to see UN mediation as crucial and that no publicity would be given to any aspect of the negotiations. At present, there are no grounds to believe that such humanitarian negotiations are close or likely to lead to broader peace talks. FARC spokesman Raúl Reyes stated that his organisation is only interested in exchanging "political prisoners" for "political hostages", i.e. abducted congressmen, senators and former presidential and vice-presidential candidates, Ingrid Betancourt and Clara Rojas. This would exclude hundreds of other kidnapping victims, and without substantial modifications such a limited prisoner exchange accord would likely be unacceptable to the government.

The announcement of a ceasefire with the AUC has drawn an even more vitriolic response from the FARC, which has asserted that a fundamental condition of any talks with the government must

include both a new DMZ and severance of any government relations with the AUC.<sup>68</sup> That reaction also has been reflected in an acceleration of urban bombings, some causing numerous injuries, such as the explosion on a downtown hotel's dance floor, some unsuccessful, including attacks aimed at President Uribe during his visit to Medellín and at legislators.<sup>69</sup>

The rationale for the FARC's refusal to begin talks with the government undoubtedly involves multiple considerations, some mostly based on their own desire to perpetuate their military control over certain areas, some ideological. First, it has maintained the capacity to carry out military actions across the country and may want to use urban infiltration and violence to strengthen its position. Secondly, its statements indicate a view that Uribe is even less likely than his predecessor to accept any structural reforms that relate to the ideological goals the organisation still asserts publicly. Thirdly, it clearly is angered by the government's decision to strengthen its own military capacity. Finally, it continues to receive significant resources from drug trafficking, since the government's counter drug policy has been less than effective.<sup>70</sup>

The AUC announcement has altered the landscape. Initially, the government's stance on negotiations varied from armed group to armed group. This differentiation — with facilitators permitted for two (the Catholic Church for talks with the AUC, the UN with the FARC) but none for the ELN — has been rethought as the government increasingly reaches out to the UN, the International Committee of the Red Cross, and the Catholic Church. It has now proposed that the UN Secretary General use his "good offices" role with respect to both the FARC and the ELN.<sup>71</sup>

### D. COMBATING THE DRUG TRADE

Drug cultivation and trafficking continue to be fundamental concerns of the Colombian government and of the international community, particularly the United States, since Colombia produces an estimated

<sup>66</sup> [http://www.anncol.com/august\\_eng/2308\\_colombian\\_rebels\\_offer\\_peace\\_talks.htm](http://www.anncol.com/august_eng/2308_colombian_rebels_offer_peace_talks.htm).

<sup>67</sup> [http://www.anncol.com/Diciembre02/0312\\_uribe.htm](http://www.anncol.com/Diciembre02/0312_uribe.htm); ICG interview, New York, 13 December 2002.

<sup>68</sup> <http://www.anncol.com>, op. cit.

<sup>69</sup> <http://www.miami.com/mld/miamiherald/2002/12/16/news/world/americas/4747842.htm>.

<sup>70</sup> Ibid; ICG interview, Washington, 13 December 2002.

<sup>71</sup> Statement of the Foreign Minister at the Inter-American Dialogue round-table, 13 December 2002; ICG Interview, Washington, 12 December 2002.

80 per cent of the world's cocaine and a growing share of poppy cultivation, which is being converted into more than 20 per cent of the heroin consumed in the U.S.<sup>72</sup> The Uribe administration has made confronting the drug trade a key element of its own strategy to confront the irregular armed groups that finance themselves to a greater or lesser degree from that source. According to Vice President Santos, aerial spraying of illicit crops doubled during the first four months of the Uribe administration. U.S. sources acknowledge spraying of coca crops in recent months has moved close to an annual rate of nearly 200,000 hectares, which means that at least some areas can be treated more than once. In testimony to a 12 December 2002 Congressional hearing, State Department officials promised to maintain that level of coca spraying in 2003 as well as to cover up to 10,000 hectares of poppies – 2,000 more than ever before.<sup>73</sup>

President Uribe has announced that coca and poppy plantations in the coffee-growing regions of Colombia will also be sprayed. This has provoked protest from coffee growers, who are already experiencing difficulties owing to the decrease in world coffee prices and maintain that crop eradication through fumigation alone is no solution to the drug problem. They urge the government not to spray coffee plantations that harbour illicit crops for fear of further damage to their industry. Since the government appears to be adamant, they ask that the spraying at least be conducted in conformance with environmental norms. Others urge more efforts to ensure that farmers who have agreed to voluntary eradication are not sprayed.<sup>74</sup>

Although UN information shows overall coca cultivation was reduced by 11 per cent in 2001 and is believed to have decreased further in 2002, disputes still exist over the exact extent of cultivation, and aerial spraying continues to be viewed as controversial and, in the long term, not sustainable by itself.<sup>75</sup> Most data also show increases in poppy cultivation, which prompted the recent U.S. Congressional hearing. The higher altitude poppy areas are harder to reach with aerial spraying, and

there are reports from Colombia of FARC pressure on farmers to increase poppy planting.<sup>76</sup> Some see the consequences of a heavy emphasis on spraying as likely alienation of a broad segment of the affected rural population, with longer term negative impact on the environment as some farmers are reportedly driven deeper in the biodiversity rich forests.<sup>77</sup>

Four years ago, eight to eleven Colombian departments were affected by illicit crops; today, 23 are. A real danger exists that coca growing will also again increase in Peru and Bolivia, and possibly even in Venezuela and Ecuador. Strong price fluctuations for legal crops, such as coffee and banana, make it difficult to implement alternative development programs. Some small Colombian farmers whose crops, both illicit and licit, have been sprayed see their livelihood jeopardised, are under pressure from the FARC and others to stay with coca and have an historical suspicion of government promises of alternative development aid.

President Uribe's determination to intensify this policy thus carries high political, social and environmental risks. The European Union stresses the need for more effective alternative development. Although in general it has been supportive of the Uribe administration, it has sharply criticised aerial spraying, which has affected alternative development projects it funds.<sup>78</sup> EU Foreign Ministers emphasised on 10 December 2002 "the search for alternatives to drugs production".<sup>79</sup>

Colombian and U.S. counter-drug officials, however, see spraying as essential to bring farmers to accept an inevitably lower income from licit crops or other alternative economic enterprises. An effective manual eradication strategy is far more difficult than in other Andean countries because of the ongoing civil conflict and the pressure placed on small farmers by warring irregular groups who depend on drug money for a significant portion of their financing. Aerial spraying, despite its negative side effects, has been adopted by the Uribe government as a necessary evil, and its increased use is lauded by

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<sup>72</sup> Testimony, Paul E. Simons, Acting Assistant Secretary of State for International Narcotics and Law Enforcement Affairs, House Government Reform Committee, 12 December 2002.

<sup>73</sup> Ibid.

<sup>74</sup> *El Tiempo*, 3 December 2002, pp. 1/10 and 1/13.

<sup>75</sup> ICG interview, Bogotá, 11 December 2002.

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<sup>76</sup> Simons testimony, op. cit.; ICG interview Washington 16 December 2002.

<sup>77</sup> ICG interviews, Bogotá, October 2002; Washington December 2002.

<sup>78</sup> ICG interview, Brussels, October 2002.

<sup>79</sup> ICG interviews, Bogotá, Brussels, September-October 2002 and conclusions of the General Affairs Council of the European Union, Brussels, 10 December 2002.

U.S. drug program officials, who note that the campaign since Uribe's inauguration is "the first sustained, large-scale aerial eradication effort in Colombia" involving more than 60,500 hectares in Putumayo/Caquetá departments.<sup>80</sup> Doubtters note that although since 1996 spraying has covered nearly a million acres, cultivation has increased.<sup>81</sup>

Unhappiness with spraying may, however, provide impetus for accelerating the effort to reinstate aerial interdiction, which remains held up by a U.S. Justice Department review of liability issues in the aftermath of the 2001 shoot-down of a civilian plane in Peru. It also may increase support for accompanying serious law enforcement with a clearer, more transparent, more effective alternative development program that not only provides community benefits but also offers a degree of income substitution to coca growers. Uribe further hopes that his full commitment to fighting drugs may spur more innovative demand reduction programs in the consumer countries and new international efforts to come up with more imaginative counter-drug programs.<sup>82</sup>

#### **IV. FIGHTING CORRUPTION, BALANCING THE BUDGET AND RESPONDING TO HUMANITARIAN CRISIS**

The centrepiece of President Uribe's efforts to reform the political system, combat corruption and improve economic performance – which he wisely sees as ultimately intertwined with the security situation – is a referendum on a series of government reorganisations, fiscal changes and anti-corruption measures designed both to strengthen government legitimacy and reduce "non-essential" public expenditures. The government describes this proposed referendum as a ballot against "corruption and political chicanery". To the degree that these reforms succeed and impact on the poor, they undercut any remaining political argument of the rebels and strengthen international support for the Uribe security strategy.

<sup>80</sup> Simons testimony, op. cit.

<sup>81</sup> Ibid; testimony, Adam Isacson, Center for International Policy, House Government Reform Committee, 12 December 2002.

<sup>82</sup> ICG interviews, Bogotá and Washington, December 2002.

After protracted debate in both chambers of parliament, the bill authorising the referendum was passed in mid-December 2002.<sup>83</sup> Given the government's working majorities, this is no surprise.<sup>84</sup> A move by Uribe to offer the Organisation of American States (OAS) ambassadorship to his former presidential opponent, Horacio Serpa, strengthens the alliance between Serpa's traditional Liberals and the Uribe bloc.<sup>85</sup> However, the most radical political reforms originally proposed by the president, including a one-chamber legislature to replace the current bicameral parliament, have been dropped. While the referendum includes a number of welcome steps, it fails to address some needed areas for reform such the electoral law and the political party system.<sup>86</sup> It now largely focuses on fiscal matters, such as limiting salaries and pensions of privileged groups of civil servants, eliminating departmental, district and municipal audit bodies, freezing operating expenditures of state institutions and reducing the number of senators from 102 to 81 and the number of deputies in the House of Representatives from 166 to 134.<sup>87</sup>

It is questionable if these measures will significantly cut government spending.<sup>88</sup> It is further not clear why anti-corruption measures, such as abolition of the

<sup>83</sup> ICG interview, Bogotá, 27 November 2002.

<sup>84</sup> Elisabeth Ungar, "La reforma política: el Congreso en la mira", in *Coyuntura Política*, no. 22 (Bogotá, October 2002), p. 13.

<sup>85</sup> <http://elpais-cali.terra.com.co/historico/dic102002/nal/a510n8.html>.

<sup>86</sup> For example, the referendum's provision to introduce a 2 per cent threshold in elections for the Senate does not address the serious problem of fragmentation and atomisation of the political party system. As an isolated measure, the threshold would not guarantee better democratic representation and more party discipline.

<sup>87</sup> Pensions of civil servants would be limited to a maximum of 25 minimum salaries. Nobody under the age of 55 would be eligible for a public pension. Special pension rights would be abolished on 31 December 2007. Also, the new number of senators is arbitrary. It would probably exacerbate the problem of under representation of some departments in the Senate. See ICG Latin America Briefing, *The 10 March 2002 Parliamentary Elections in Colombia*, 17 April 2002; Texto definitivo del proyecto de ley no. 057 de 2002 Cámara – 047 de 2002 de Senado "Por la cual se convoca un referendo y se somete a consideración del pueblo un proyecto de reforma constitucional", aprobado en segundo debate en sesión plenaria de la Cámara de Representantes los días 28, 29, 30 de octubre, 05, 06, 07, 12, 13 y 19 de noviembre de 2002.

<sup>88</sup> ICG interview, Bogotá, 27 November 2002; Ungar, *El Congreso en la mira*, op. cit., p. 13. It is estimated that public savings will amount to 0.4 per cent of GDP.

special funds for deputies (*auxilios parlamentarios*), expansion of some educational services and the fight against illegal drug addiction need to be approved by popular vote.<sup>89</sup> They could be dealt with as routine legislation. It appears that the thrust of the referendum is, at least in part, to meet the high expectations raised during the election campaign and fortify the president's image as a strong executive determined to end corruption and misuse of public funds with the help of the "people". Now that the bill is law, the Constitutional Court will determine whether the referendum complies with constitutional norms. If so, Colombians are likely to vote on it in March 2003. According to the constitution, for each referendum provision to be approved, a majority must vote in favour of it, and at least 25 per cent of the national electorate, or roughly six million people, have to vote in the referendum.<sup>90</sup>

In order to increase revenues, the administration's economic program contemplates tax hikes in conjunction with reduced expenditures as well as pension and labour reform. The proposed tax package contains a one-year, 10 per cent increase in income tax, and a six and five per cent increase, respectively, in Value Added Tax for goods and services and for beer. Penalties for tax evasion would be substantially increased. The pension reform package would increase contributions and the retirement age while cutting special benefits enjoyed by politically powerful groups of employees, including the president, parliament and armed forces.<sup>91</sup> The effort at labour reform is designed to reduce costs, make the labour market more flexible and create new unemployment insurance.<sup>92</sup>

The planned tax, pension and labour reforms have already sparked a great deal of controversy and

protest in parliament as well as among trade unions, who fear that some of the measures will aggravate already precarious living and working conditions of a majority of salaried Colombians, including their members.<sup>93</sup> Parliamentary debate will be long and difficult. The international financial institutions, in particular the IMF, have endorsed the measures, and the government has obtained U.S.\$781 million in external credits for fiscal year 2003.

The trip of IMF Managing Director Horst Köhler to Bogotá in mid December 2002 is likely to result in a new U.S.\$2 billion two-year package of financial support that will provide some breathing space for the economy. Yet, it remains unclear whether the conditions the IMF will impose will be economically and politically manageable.<sup>94</sup> The existing agreement expires on 19 December 2002, and the IMF reportedly is demanding that the fiscal deficit be cut from 4.1 per cent in 2002 to 2.6 per cent in 2003 if it is extended. This could make it difficult for the government to meet its "guns and butter" financing needs. Another condition for IMF extension is passage of the pension reform law. Although clearly needed, this could be politically daunting in the near-term given the heavy legislative agenda described above. On a positive note, word of the Fund's likely favourable disposition helped the government place some U.S.\$500 million in bonds on the private international market in early December 2002.

The World Bank and the Inter-American Development Bank (IDB) also have substantial loan disbursement targets for next year: U.S.\$900 million and U.S.\$1 billion respectively. Key conditions for those loans are legislative approval of tax reform, pension reform and anti-corruption measures. The IDB has also conditioned its lending on the government protecting budget levels for its social safety net, singling out specific programs like Families in Action, Youth in Action and Employment in Action, as well as the Solidarity Network for displaced persons. The IDB also will extend new money for the Peace Investment Fund if the government maintains its own financing commitment. Another crucial area that will require added resources is the rule of law, where extending the judicial system and police presence – even a limited rural police – to hundreds of municipalities

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<sup>89</sup> "Auxilios parlamentarios" are special funds available to deputies of the House of Representatives to finance social, economic or infrastructure projects in their departments. Although article 355 of the 1991 constitution prohibits the *auxilios*, in practice they exist and have been used by parliamentarians to garner political support, especially at election times. It is, therefore, not clear what is new about the proposed amendment of article 355 and how it would help end the practice.

<sup>90</sup> Provisions within the referendum can be voted on either individually or as a whole.

<sup>91</sup> The latter would affect employees of the state-owned oil company Ecopetrol, teachers, members of congress, magistrates, the armed forces and the president.

<sup>92</sup> See Ministerio de Hacienda y Crédito Público, *El programa económico en marcha* (Bogotá, November 2002).

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<sup>93</sup> See *Caracol Colombia*, "Sindicalistas descalifican política social de Uribe", 14 November 2002.

<sup>94</sup> ICG interview, Washington, December 2002.

without coverage remains a basic government objective.<sup>95</sup>

These issues have to be addressed in a very difficult climate. While the economy has recovered somewhat from the deep recession of 1999, GDP grew by only 2.7 per cent in 2000 and 1.5 per cent in 2001. Estimates for GDP growth during 2002 and 2003 are 1.6 and 2.2 per cent. The fiscal deficit decreased from 5.1 per cent of GDP in 1999 to 3.3 per cent in 2001 but is expected to surpass 4.0 per cent in 2002. Open urban unemployment reached 18.5 per cent in 2001, the worst during the past decade, except for 1999.<sup>96</sup>

Poverty and extreme poverty levels have been increasing, particularly in rural areas, since the mid-1990s. UN Economic Commission for Latin America and the Caribbean data, as well as Colombia's own statistics, suggest that this trend continues.<sup>97</sup> One of the clearest indicators of the economic impact – and the wrenching human dislocation – of the conflict are the more than 200,000 people newly displaced during 2002. They inflict a double hit on the economy through lost production and an increased demand for social services. Referring to this humanitarian crisis, UN High Commissioner for Refugees Ruud Lubbers observed:

While the responsibility for assisting and protecting internally displaced people lies first and foremost with the Colombian government, the dramatic worsening of the humanitarian situation in Colombia requires a greater effort on the part of the humanitarian agencies, the whole of the international community and private donors.<sup>98</sup>

The Uribe Administration apparently hopes that a new effort to decentralise humanitarian assistance

and give the private sector a more prominent role, including a greater effort to secure private donations of money, food and transportation, will fill the growing gap.<sup>99</sup> While international organisations welcome this initiative and particularly Uribe's public acknowledgement, the first time for a Colombian president, that the humanitarian situation is a crisis, they continue to call urgently for greater national budget commitment as well as increased international contributions.<sup>100</sup> They particularly note Colombia's tax burden in 2001 of only 13.2 per cent of GDP. Assuming continuation of the war tax for a second year and the new tax reforms, the figure in fiscal year 2003 still would be well below the Latin American average.<sup>101</sup>

Confidence in government economic and social policy is limited, reflecting the difficulties a majority of families face in simply surviving. Reservations about some of the pension and labour reform policies are high.<sup>102</sup> The test for Uribe will be to manage the competing demands for government attention and resources. At the least, he will need to maintain a credible social safety net and demonstrate both an understanding of the problems of Colombia's poor and a start at doing something about them.

## V. SEEKING INTERNATIONAL SUPPORT AND SOLIDARITY

In numerous international forums, President Uribe and Foreign Minister Barco have sent the clear message that Colombia requires more help and understanding. Pointing out that the conflict is increasingly a regional one and that the drug problem has to be solved on the principle of "co-responsibility" between producer and consumer countries, the government has requested more active and substantial support from its neighbours and from the European Union. The EU responded clearly in a statement which "expressed its support to the Government of Colombia in its fight against

<sup>95</sup> ICG interviews with IFI officials, Bogotá, December 2002. ICG interviews with Colombian government officials, September-October, 2002.

<sup>96</sup> UN Economic Commission for Latin America and the Caribbean (ECLAC), *Balance preliminar de las economías de América Latina y el Caribe 2001* (Santiago de Chile, December 2001); *Semana*, 16-23 September 2002, p. 27, and 25 November-2 December 2002, p. 84. Open unemployment refers to data available on workers laid off from the formal sector and seeking jobs. It does not cover the hidden unemployment of those who have lost jobs in the informal sector or are not working full-time.

<sup>97</sup> *Semana*, 6-13 May 2002, pp. 29-36.

<sup>98</sup> UNHCR Press Release, "Lubbers expresses concern over worsening humanitarian situation in Colombia", 13 November 2002.

<sup>99</sup> ICG interview, Bogotá, 6 December 2002.

<sup>100</sup> ICG interview, Bogotá, New York, December 2002.

<sup>101</sup> Data drawn from Colombia's National Planning agency by the IDB, <http://www.minhacienda.gov.co/pls/portal30/docs/folder/repositorio/confis/doc+++0012++2002.pdf>, and from IMF documents.

<sup>102</sup> See footnote 5 above.

terrorism as well as against drug trafficking” and “hope for strengthened co-operation”.<sup>103</sup>

When Uribe met with President Hugo Chávez of Venezuela and President-elect Lucio Gutiérrez of Ecuador, discussions centred on trade and border cooperation within the Community of Andean Nations. Gutiérrez, who had criticised Plan Colombia in his election campaign, was subsequently more neutral, stating that Ecuador would not interfere in Colombia's internal affairs. He also offered good offices in the quest for a negotiated solution to the conflict.<sup>104</sup> Uribe hosted Chilean President Ricardo Lagos, who not only offered political support, but also demonstrated his concerns by visiting the recently rescued Bishop Jiménez. Lagos referred to the conflict as one that affects regional stability and asserted a willingness to collaborate, although the bottom line was that it remains a conflict for Colombians to resolve.

Nevertheless, this is one of the first signs of strong Latin American political support for Uribe, who, according to his foreign minister, also plans to receive Panama's president and pursue concrete cooperation agreements with Colombia's neighbours. The Colombian government's intention to reach out also was reflected in a cooperative agreement signed in December by the minister of defence and Peru's interior minister providing for joint police actions against terrorism and drugs.<sup>105</sup>

Even before taking office, Uribe emphasised the importance of UN mediation in future negotiations with the FARC and increased UN support to Colombia, including on displaced persons and other humanitarian concerns. He invited the representatives of the UN system in Bogotá to meet with him after taking office and now has initiated regular monthly meetings between the foreign minister and the UN representatives resident in the capital. He has met three times with UN Secretary General Kofi Annan. Although details have not been released, ICG understands that discussions centred on the conflict, contacts with armed actors, and the role of the UN

and international community, including possible mandates.<sup>106</sup>

At the government's request, the UN is maintaining discrete channels to the FARC and now to the ELN guerrillas, and the government and the UN are considering a range of options to invigorate a new process of dialogue with the latter. The UN's need to maintain its independence of action will be a complicating factor for a government that wants to manage its most important issue closely. At the same time, the facilitating role or “good offices” of the Secretary-General is not easily defined with three different armed groups, including a paramilitary, nor is it made less complicated by the recent AUC announcement of willingness to enter a ceasefire.

The sessions with Kofi Annan reportedly also covered possible responses to the humanitarian crisis. The UN is carefully exploring the conditions for a “humanitarian agreement” permitting release of prisoners and of all kidnap victims, and has a new humanitarian action plan focused on internally displaced persons (IDPs), which was discussed during the Lubbers visit in late November.<sup>107</sup> Uribe publicly has urged the UN to work with his government to use Colombian or other troops to protect displaced persons and help them return to their communities. He has pressed the UN to offer alternatives if his suggestions prove unworkable. The request is seen by the UN as understandable although, again, enormously complex given the ongoing conflict. The UN and the government have now set up a working group to review the entire IDP problem with a commitment to find a common, viable approach to improve their situation and ideally permit safe return to their communities.<sup>108</sup>

Colombia's relations with the U.S. are probably better than at any time since the early months of the Pastrana government. This is reflected in the words of Foreign Minister Barco: “We must begin by saying the U.S. is our friend”.<sup>109</sup> It is even more evident by the statements of President Bush and the

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<sup>103</sup> Conclusions of the General Affairs Council of the European Union, Brussels, 10 December 2002.

<sup>104</sup> *El Tiempo*, 30 November 2002, p. 1/9.

<sup>105</sup> [http://eltiempo.terra.com.co/hist\\_imp/historico\\_impreso/nacion\\_historico/2002-12-09/articulo-web-nota\\_interior\\_hist-222684.html](http://eltiempo.terra.com.co/hist_imp/historico_impreso/nacion_historico/2002-12-09/articulo-web-nota_interior_hist-222684.html); <http://www.presidencia.gov.co/cne/diciembre/11/28122002.htm>.

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<sup>106</sup> ICG interview, New York December 2002; [http://www.un.org/News/pressg/13\\_15\\_and\\_26\\_September\\_2002](http://www.un.org/News/pressg/13_15_and_26_September_2002).

<sup>107</sup> ICG interview, New York December 2002.

<sup>108</sup> *Ibid*; also ICG interview, Washington, December 2002.

<sup>109</sup> *Semana*, 4-11 November 2002, p. 40.

record of direct conversations between the two presidents dating from Uribe's election.<sup>110</sup>

Both governments are convinced that Plan Colombia has to continue in its extended form, and both seek exemptions, temporarily in Colombia's case, from the jurisdiction of the International Criminal Court (ICC). In September 2002, the U.S. State Department issued its "Certification of the Colombian Armed Forces with Respect to Human Rights Related Conditions", paving the way for the release of approximately U.S.\$70 million in training, weapons, ammunition and other military supplies. This was criticised by Amnesty International, Human Rights Watch and the Washington Office on Latin America, which charged that "no serious progress was made toward suspending officers implicated in abuses, toward effective judicial investigations of abuses, or toward breaking the persistent links between the military and paramilitary groups".<sup>111</sup> U.S. military training has also been stepped up, as the U.S. Congress agreed to the proposal of the Uribe and Bush administrations to lift the restriction limiting use of military aid to counter drug activity, so as to permit direct U.S. support for counter-insurgency efforts.<sup>112</sup>

Secretary of State Colin Powell's 3 December 2002 visit, which had been cancelled twice and came as Colombia assumed the temporary presidency of the UN Security Council, was of more than symbolic importance for the Uribe government. It already has produced a stated determination on the part of Powell not only to ensure the continuation of Plan Colombia in 2003 but also to resume U.S. intelligence aid to Colombia for intercepting drug-carrying aircraft and to seek increased overall U.S. funding in 2003 and 2004.<sup>113</sup> In fiscal year 2003, Powell indicated, the Bush Administration expects to give more than \$500 million to Colombia, with more than 30 per cent for economic, humanitarian and non-military programs. Powell said he actually hoped to increase that level of overall funding in the fiscal year 2004 budget now being prepared.<sup>114</sup> Powell also lauded Congressional

approval of the Andean Trade Preference Act, which reduces tariffs on a series of Colombian products.<sup>115</sup>

Bumpy moments in bilateral relations have included the U.S. request for extradition of paramilitary leaders Castaño and Mancuso during Uribe's first official visit to Washington in September, and Colombia's reluctance to exempt all Americans, as opposed to "official" Americans, from International Criminal Court provisions. In November, the Colombian government had to drop its plans to buy Brazilian light attack planes after the U.S. Army urged it to upgrade transport aircraft, mostly American-built, instead.<sup>116</sup>

While the U.S. remains Colombia's most important partner, the Uribe administration has stated its intention to intensify and broaden relations with the Andean countries, Brazil, Europe and Asia. If the Lagos trip and the planned visit early in 2003 by the EU Commissioner for External Relations, Chris Patten, are indicators, Uribe is indeed moving to expand international support. His foreign minister states a desire in particular for more cooperation with neighbours.<sup>117</sup> Clearly, Colombia requires help. Inviting in more international actors also implies, however, readiness to bridge differences in key areas, such as aerial spraying and human rights. Forging a broad and effective alliance in support of policies to bring a negotiated end to the conflict will not be easy.

## VI. CONCLUSION: POLICY PRIORITIES DURING THE REMAINDER OF URIBE'S FIRST YEAR

President Uribe has enjoyed an extended honeymoon. He is popular with Colombians, has consolidated relations with the U.S., and has reached out to other countries and the UN much earlier than his predecessor, even if carefully. His major

<sup>110</sup> ICG interviews, Washington, 8-9 December 2002.

<sup>111</sup> "Colombia Fails Rights Test", 10 September 2002 <http://hrw.org/backgrounder/americas/colombia-certification4.htm>.

<sup>112</sup> <http://www.state.gov/secretary/rm/2002/15704.htm>.

<sup>113</sup> Interception was stopped in April 2001 after the Peruvian air force mistakenly shot down a plane, killing a U.S. missionary and her daughter.

<sup>114</sup> <http://www.state.gov/secretary/rm/2002/15704.htm>.

<sup>115</sup> Ibid.

<sup>116</sup> The U.S. was angered and the Uribe administration embarrassed when a Colombian court ordered the early release from prison of one of the key members of the Cali cartel, Gilberto Rodríguez Orejuela. [http://eltiempo.terra.com.co/judi/2002-11-08/articulo-web-nota\\_interior-194649.html](http://eltiempo.terra.com.co/judi/2002-11-08/articulo-web-nota_interior-194649.html).

<sup>117</sup> Inter-American Dialogue statement, Foreign Minister Carolina Barco, Washington, 11 December 2002. The minister noted that Uribe has already met with the presidents or president-elect of Venezuela, Brazil, Ecuador and Peru and will shortly see Panama's president.



challenge is to get the balance right between enhancing security, exploring ways of establishing meaningful negotiations with the irregular armed groups and respecting human rights and fundamental civil liberties. All this has to be achieved relatively fast and in very difficult economic, humanitarian and social circumstances. He not only must find the funds for his security initiative but also save some resources, raise more tax revenues as a percentage of GDP to bring the country closer to the Latin American average and address social safety net issues that are very real for the nation's poor and displaced.

*Security.* While the security challenge from the armed groups is real, it also is evident that emergency measures, such as the RCZs and the network of informants, need to be closely monitored by parliament and the judiciary and by independent national and international human rights entities, and well implemented by the executive. If they do not produce tangible results within three to six months, they should be thoroughly reviewed. The state of public unrest should not be a permanent legal fixture of Colombian life, and it should be discontinued as early as possible. While the guardian function of the armed forces should be extended to increase citizen security and permit more normal activity, it should not interfere with the primary mission of the military: combating the irregular armed groups more decisively as part of a strategy ultimately aimed at bringing them to the negotiating table. The one-time war tax was an important presidential initiative for a host of reasons, but from the financial standpoint, it undoubtedly will have to be continued for several years. And other tax measures, and enforcing tax compliance, also are needed to boost revenue – only partly to pay for the war.

*Human Rights.* The Uribe administration will need to continue to make all efforts to safeguard fundamental rights and liberties in its quest for security. This includes abiding by both domestic constitutional limits and its international obligations and working together with international human rights organisations, including the UNHCHR, the ICRC, Human Rights Watch and others and domestic organisations, making information readily available, recognising the utility of independent, serious human rights monitoring both in and outside the RCZs, and providing journalists with the necessary space to work. Based on the new accusatory criminal justice system to take effect in 2005, the government also

should design a plan to strengthen the judiciary and fully extend the institutions of the rule of law.

*Negotiations.* The government should maintain its declared readiness for meaningful negotiations with the irregular armed groups, however dim the prospects for early talks with the FARC may be, and move forward on its recent decision to use UN good offices to help resume more formal, structured peace talks with the ELN. A humanitarian accord with the FARC ought not to be limited to “political prisoners” and “political hostages” but provide relief for all kidnapping victims. Any negotiations with the AUC should focus on their demobilisation, disarmament and reinsertion into civilian life – not their integration into the regular armed forces – and a distinction will need to be made to avoid wholesale immunity from prosecution, particularly for those suspected of the most serious crimes. If the AUC offer proves spurious, the paramilitaries must be pursued with the same vigour as the campaign against the FARC.

*Drugs.* Narcotics remain the wild card in the conflict, financing all the armed groups to some degree. The trafficking entities have their own compelling interest in maintaining the conflict. Counter-narcotics policy requires review, both domestically and internationally, particularly if cultivation continues to increase. Even if minor reductions are demonstrated, the emphasis on aerial spraying could, apart from not producing the expected results, compromise the building of a broad international alliance capable of tackling the problem from both ends: production and consumption.

Restarting aerial interdiction would be important, along with strengthening law enforcement and exploring alternative development alternatives such as the government's own forestry protection proposal. But a key requirement is greater transparency and clearer rules to give *campesinos* at least a real chance at manual eradication to avoid aerial fumigation. Few observers, domestic or foreign, are confident of the success of current policy. Many more acknowledge the importance of an effective counter-narcotics policy, particularly in relation to the conflict, but believe fundamental changes are required.

*Reforms.* The “Referendum against Corruption and Political Chicanery” is meant to be the first step in pursuing much needed political reforms but it is unlikely to do much to reduce the fiscal deficit. On the economic front, the government will have to

obtain more funds from other sources, such as tax and pension reform, as well as extend its war tax and utilise the already announced "war bonds". However, given the social and economic crisis, the administration should give priority to adjustment measures that do not further aggravate the living conditions of that majority of Colombians who live in poverty. Implementing measures against tax evasion also may yield additional resources but equally important would reflect determination to ensure that everyone shares in the wartime sacrifices required by a nation under siege.

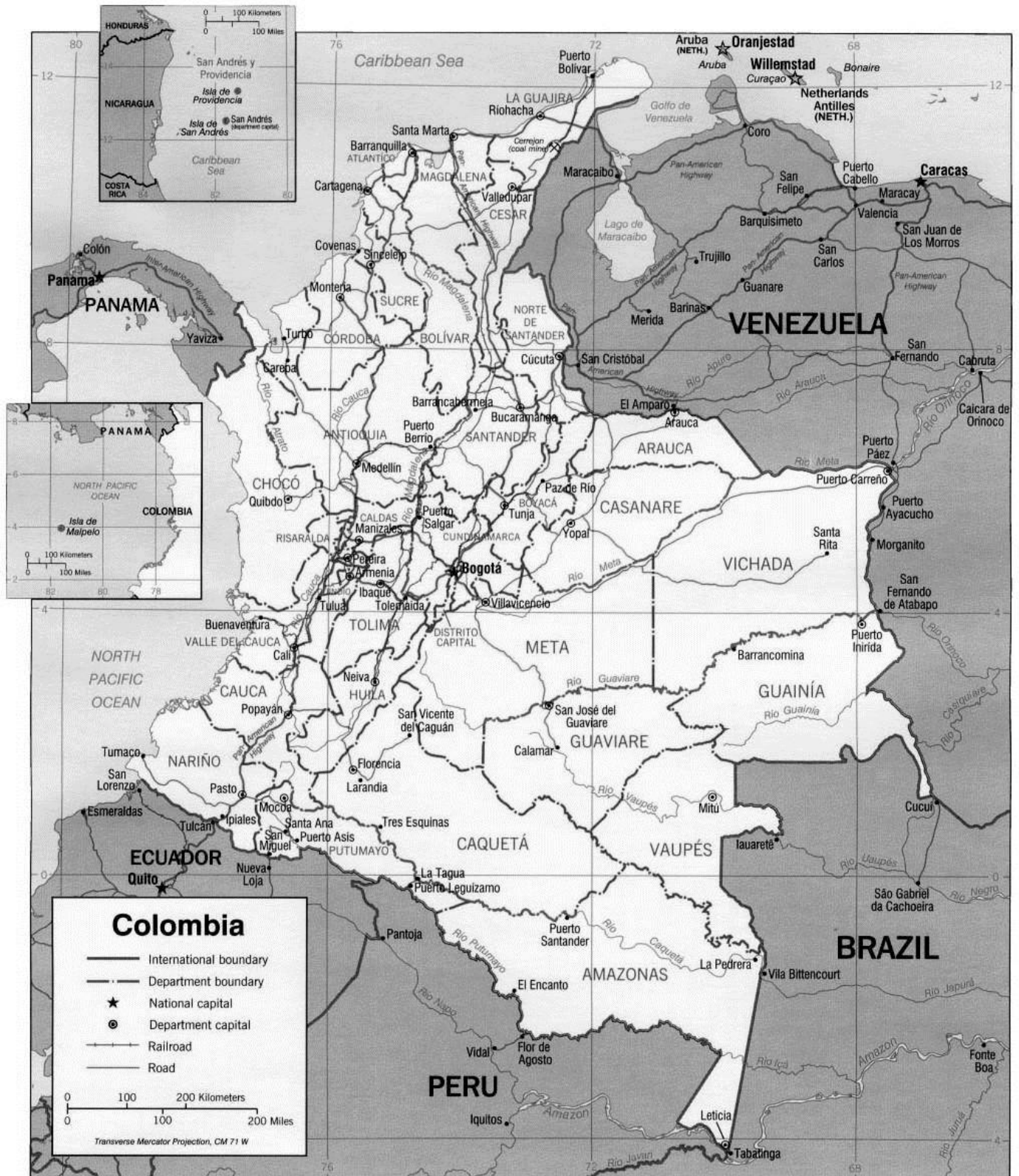
However, there is strong reason for the IMF to be more flexible than it otherwise might be, given the complex challenges facing a government that is so evidently conscious of sound macroeconomic policy. More external financing is clearly necessary and early agreements with the international financial institutions should boost external funding. Here, too, donors should be thinking about how early and visible disbursements directed at the most vulnerable, such as displaced persons, and in conflict zones,

could help demonstrate a positive side to an extension of the state's presence.

*International Relations.* A more effective dialogue with Latin American neighbours about regional economic, political and military co-operation and border development is an important objective. The Europeans should continue their decision to give more visible support to Colombia's struggle against the irregular armed groups, drugs and poverty. The continuation of high level UN engagement by the Office of the Secretary General and other parts of the Secretariat, along with the broader UN system, is undoubtedly crucial if there are to be successful negotiations. The Uribe government's invitation for an expanded UN role is a positive development. U.S. assistance to the security side of the Colombia ledger must be balanced with continuing stress on human rights and support for reform and anti-poverty efforts.

**Bogotá/Brussels, 19 December 2002**

## APPENDIX A MAP OF COLOMBIA





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