

Washington, D.C. Wednesday, 20 October 2004

Mr. Director
John P. Walters
Executive Office of the President
Office of National Drug Control Policy
Washington D.C. 20503

Dear Mr. Walters,

Taking into account your request to the Colombian Ambassador to the United States of America to bring his views and insights on a national strategy that you are building for the year 2005, I would like to take this opportunity to send you a proposal –not a political but a technical one- I have prepared for the Ministry of the Interior and Justice of Colombia, as adviser to the Minister in the Colombian chapter of the fight against the worldwide drugs problem.

Hopefully this document will help to create a true strategy against this terrible crime that finances terrorism worldwide. By the way it is frustrating, that despite the sharp reduction in illicit opium production in Afghanistan of 94% from 2000 to 2001, due to the ban by the Taliban regime, resulting in Afghanistan producing just the 12% of the world illicit supply; this latter figure rose sharply the following years, and by 2002 and 2003 illicit opium production in Afghanistan had increased to an astonishing 76% of the world supply, when the most powerful nations, led by United State are in Afghanistan fighting against terrorism and what finances this, namely drug trafficking.

Sincerely

ALBERTO RUEDA
Ministry Adviser

MEMORANDUM

To: Honourable Minister, Sabas Pretelt de la Vega
From: Alberto Rueda
Subject: **A New Stage in the Fight on Drugs**
Date: Wednesday 13th October 2004

COLOMBIA SHOULD PROVE FROM THE FACTS THAT IT HAS NOT SACRIFICED ITS FINEST SONS IN VAIN IN THE FIGHT AGAINST DRUG TRAFFICKING

Dear Minister,

INTRODUCTION

On 8 August last, I completed my first year as adviser to the office of the Minister in the Colombian area of the fight against the worldwide drugs problem, and accordingly feel obliged to present a diagnosis of this problem and to make a number of proposals, with a view to seeing the Ministry of the Interior and Justice take action that is more nationwide, far-reaching and really efficient, so that we can effectively take the lead in such a high-profile issue as anti-drugs policy.

The democratic security policy has taken on board the Pastrana/Clinton 'Plan Colombia' and continued this as its focal point in the fight against illicit drugs, under the watchful eye of the United States and with American financing. I record this merely as a factual aspect of the action taken by the government, and hence equally by the Ministry of the Interior and Justice. The exemplary execution of this policy concentrates on fumigating illicit crops, and aims to achieve an annual spraying figure of at least 130,000 hectares. This 'Plan Colombia' policy, as I said in a publication by the Ombudsman in 2000¹, undermines the overall harmony that has been achieved in the worldwide fight against drugs², something that was designed at an extraordinary session of the United Nations General Assembly in 1998. Plan Colombia was a policy that was drawn up bilaterally by the United States and Colombia, with other major players on the international stage, such as the European Union, and other developed countries left out. If these had been involved, we would no doubt now be in a much more balanced situation, and their lack of enthusiasm for supporting the present drugs policy is therefore hardly surprising. This helps us understand why it has been a problem getting funding of this kind. But European Union support is evident in other strategic development

¹ "Cultivos Ilícitos, Política Mundial y Realidad en Colombia".

² As reported in the Sunday 3 September 2000 issue of the newspaper 'El Espectador', under the title "Cultivos Ilícitos, Eje de Paz".

areas in Colombia. As an expert on this problem, I was also able to make this position clear to the general public in an Italian television programme that was re-broadcast by the international channel RAI, and in which the former UN General Undersecretary on Illicit Drug Issues and Offences also took part. Despite this, Mr. Minister, my activities in this Ministry have not sought to criticise, but rather have been directed towards finding a way of setting in motion action that is wider-ranging and goes beyond the dogmatism of the fight on drugs, which views the problem as if it were like fighting guerrillas as part of the democratic security policy.

The aim of this advisory service has not been, as certain comments by Ministry officials would, with a certain degree of McCarthyism, sometimes have it, to sabotage a model that won elections in 1998 and 2002. Rather, based on the real situation, I have attempted in this context to propose more universal courses of action that will lead to a more overall fight against drugs.

Against the background of the above introduction, I would now like to propose a number of actions.

1. A team should be formed in the Ministry of the Interior and Justice to guide national policy on the fight against drugs; this will mean providing instruction in Colombia's international policy on these matters.
2. A seminar should be arranged for the state bodies involved in this fight, at which the results obtained in recent years, and particularly those achieved by the present government, should be examined realistically.
3. **Overstepping of authority in this fight should be examined, and proposals evaluated for integrating a series of actions that would see the Colombian area that is involved in fighting the worldwide drug problem treat the issue in a more balanced manner and set in motion new courses of action, based on the considerations aired. The results obtained using the fumigation policy should be analysed, in terms of the spraying vs. real reduction in hectares cultivated ratio.**
4. **Consultations should be carried out in Colombia, in the search for a more autonomous position in the fight against drugs as an alternative to absolute prohibition and total liberalisation. It should be clearly stated that it would be for purposes of regulation and for discussion within the context of the United Nations.**
5. Conclusion. **The position of President Virgilio Barco.**

ACTIONS

- 1. Form a team responsible to the office of the Honourable Minister, which will set out, coordinate and give instruction in state anti-drugs policy.**

A lack of management and coordination can be observed in the Colombian state in the fight against illicit drugs. There is no national command centre for all actions in this field, and each entity accordingly takes on duties, which are valuable in themselves without doubt, but there is no real unity of action. A draft version exists of the national anti-drug plan, covering the years 2004 - 2006, although this will not solve the problem. A quick glance at this document has moreover shown me that it contains a number of general statements, when its main direction should be to specify guiding doctrinal principles and concrete actions, including financing. A plan which includes a ban on precursors, for example, is of no use to us if security and fiscal and customs control entities have no clear policy and no budget to finance it, and no adequate operational programme for executing it, either. The budget should, moreover, be a balanced one, because while the budget for the crop substitution programme is virtually non-existent, vast sums of money and other resources are available for aerial spraying activities. No really appreciable results will be obtained unless action is taken with the same drive and efficiency on all fronts. It is wrong to think that we will solve the illicit drugs problem merely by fumigation. This is why a management team is needed, to unify the whole administration of and provide proportional financing for the overall fight against illicit drugs. This lack of management and administration can be seen, for example, at international level, whenever there is a bilateral, multilateral, hemisphere or regional event. The scenario is as follows: the Foreign Office calls an inter-institutional meeting so that each branch can give its own input, yet the state entities that are summoned are not told what the Foreign Office position is, or even informed subsequently of the presentation it has given at the corresponding international gathering. Colombian involvement in the numerous international conferences on these topics is deficient, precisely because in most cases, the Ministry of Foreign Affairs has to take on the role of spokesman, despite limitations in terms of its expertise on the subject. The lack of any decisive action or representation by other state entities is also notable, when the norm should be the exact opposite, since our country is terribly afflicted by the drugs scourge. The state cannot leave a responsibility that is of such vital importance to the country in the hands of the Ministry of Foreign Affairs. We say this with sadness, because the Ministry has no experts on the subject. The Foreign Office has no professional experience in matters relating to illicit drugs; rather, it merely plays a diplomatic intermediation role. This problem of deficient management and lack of

professionalism in Colombia in the worldwide fight on drugs, which affects not only the Foreign Office, is something I have been able to document and experience during the various years I have served the state in the Ministry of Foreign Affairs and the office of the Ombudsman, and I can still see it clearly today in my work at this Ministry. A typical case is the deficient way a proposal was negotiated for improving the control of chemical precursors, when a request was made for a diagnosis and proposals for a report on the problem that was to be drawn up by the Executive Director of the United Nations Drugs and Offences Office. The job was limited to merely asking for information on improving the question of prior notice of precursor exports by countries of origin, when the issue is much wider and much more complex than that. It is a start, but Colombia cannot afford the luxury of making such scanty progress in a fight which is destabilising our institutions and wearing Colombians out, both morally and physically.

This example of slowness and lack of follow-up has been typical of the state at annual sessions of the United Nations Narcotics Commission, an organisation which establishes world policy on this scourge. It represents a deficient *modus operandi*. The various institutions are generally summoned at very short notice; and proposals are made that are inconsistent with the seriousness of the problem at domestic level and the leading role that Colombia unfortunately plays in it. And why not say so now: situations have arisen that you are well aware of, because we have commented on them at the time, such as deficiencies sometimes in the officers who are sent, or the fact that they are not the best ones or are not experts in the corresponding matters. But most serious of all, if we move on from procedures, are erroneous conceptions, which result in even worse conclusions about Colombia in these organisations.

In view of this management vacuum, it is the Ministry of the Interior and Justice that has to step in and take on the role of director in the fight on drugs. This is its vocation as an institution, as represented by its responsibilities: it chairs the National Narcotics Council, one of its attached entities is the National Narcotics Division (DNE), and its functional role to direct anti-drugs policy was endorsed in Decree 200 of 2003.

This challenge cannot, of course, be taken on by an office adviser, but rather a team should be formed of professionals and recognised experts in the subject. One course of action could possibly be to appoint an anti-drugs "Tsar", a top-ranking official from the Ministry of the Interior and Justice who would have a team working under him that consisted of officials from various specialised bodies, like the Ministry of Foreign Affairs, the National Narcotics Division (DNE), the Ministry of Social Protection (responsible for drug-taking matters), the Public Prosecutor Service, the Anti-Narcotics Police, Plan Colombia, the National Taxation and Customs Administration (DIAN), and the Financial Analysis and Information Special Administration Unit (UIAF). This option would require a decision by top

government and a legal viability study by the National Narcotics Council or the Presidency of the Republic. If no such team is available and Colombia's response to the worldwide problem of fighting the drug trade is not given a sense of direction, we will continue with a policy of inertia under the watchful eye and command of the American Embassy.

2. Seminar for Colombian State Bodies Involved in the Fight against the Worldwide Drug Problem

In view of the disjointed nature of state action against illicit drugs and the lack of coordination, I am of the opinion that the most important thing is to hold a seminar or series of "spiritual retreats" for top government, so that general issues like policy, implementation thereof and deficiencies therein, can be analysed frankly and honestly. The ideas I am putting forward in this document can be judged and analysed at any such sessions. Confronted by one of the biggest challenges the country has ever had to face, we should question, become professional, and draw up more realistic plans of action that will lead to a real solution to the problem, based on a national strategy rather than the views of the United States, which necessarily reflect only that country's own interests and the policy which unfortunately predominates there today.

3. Proposed Courses of Action towards an Overall Treatment of the Fighting on Drugs

3.1. Illicit Poppy Crops and National Production of Opiates for Treating Pain

A recent newspaper article, on 10th September last, allows me to bring up an old proposal again. The article said that there is a shortage of opiates in Colombia, meaning medicines derived from the poppy that are essential in the treatment of pain. Around five million Colombians have to turn to other means, or simply resign themselves to suffering indescribable physical pain. While looking for an adequate supply of these medicines to meet domestic demand, in May this year I started some research into countries that grow poppies and worldwide opiate production and marketing. I also contacted the National Narcotics Fund to get an institutional view of the problem. This production chain is controlled worldwide through the International Narcotics Control Board (INCB). My efforts to find facts so that a more refined proposal could be drawn up were frustrated by the biased interpretation by the Ministry of Foreign Affairs, when material was sent, of the regulations governing the trading of these medicines which I received from INCB through the National Narcotics Fund. The Deputy Minister of Justice had to intervene to calm Foreign Office nerves, but efforts to explore measures that would be of benefit to Colombians proved to be in vain. The advantages are neither small nor marginal, since we are talking of a medicine that is so important for treating pain and

suffering. This is a strategic activity which would allow our country to not suffer from a shortage of supplies and to have an essential medicine available for meeting domestic demand, and jobs would be created in an activity that ranges from the growing process to industrial production. Its strategic nature is clear from the fact that supplies of these medicines have been unavailable in Colombia for about two years, since the developed countries we used to obtain these products from stopped exports in the build-up to the fight in Iraq, so they would be able to attend to injured soldiers.

The seriousness of the figures for Colombia that were revealed in the newspaper article are consistent with the INCB 2003 report, which stated that the developing countries use about 6% of morphine supplies, while representing 80% of the world's population. 87% of total world morphine supplies for the treatment of pain are used by a mere ten countries. The newspaper article points to the differences between the United States and Colombia in terms of the availability of this medicine. The United States authorises an average of 28.96 milligrammes of opiates per person to alleviate chronic pain, while the figure for Colombia is no more than 1.27 milligrammes per year.

The specific proposal is that licit poppy crops should be authorised as an alternative to illicit ones, and that we should develop our own national morphine and opiate industry, in order to meet domestic demand and prevent a local fight in Colombia due to supply shortages. With this in mind, we should begin action on the international stage, since morphine is a controlled product in the world. Colombia is entitled to claim national production of this medicine.

3.2. Control of the Precursors Normally Used in the Production of Illicit Drugs.

I have detected four areas for reinforcing the fight against the diverting and smuggling of precursors, and am detailing these proposals below. International cooperation will be required if they are to be pursued further. Two of these proposals have already been presented informally to UNODC by the undersigned adviser, so their viability can be explored.

3.2.1. The Role of the United Nations Narcotics Commission

A study of the follow-up reports that the Office of the United Nations Undersecretary on Illicit Drug Issues and Offences (UNODC) has to draw up on the fight against the worldwide drug problem revealed that follow-up on controlling precursors, the very cornerstone of the battle against this scourge, needed reinforcing. This advisory service accordingly drew up a proposal, the final version of which was put together in conjunction with DNE and the Ministry of Foreign Affairs and was submitted by the Colombian delegation to the United Nations

Narcotics Commission in Vienna this year, and approved in part. It consisted of a request that the UNODC Executive Director should strengthen this report as one of the biannual reports. This proposal was approved in part, as I said, by the United Nations. The importance of this report lies in the fact that although it will not provide us with the extra knowledge we might hope for about the serious problem of smuggling and the diversion of chemical substances that are usually used in the illicit production of drugs, it will represent the start of a new stage in reinforcing this strategy. It is important to remember that without precursors, it is impossible to produce coca- and poppy-based drugs. Serious weaknesses have been claimed with respect to the marketing of precursors, and effective measures therefore need to be implemented in producing countries, to prevent them being smuggled and diverted. The said document, which will be presented by the UNODC Executive Director, will raise worldwide awareness and lead, depending to a large extent on initiatives by Colombia, to more effective measures being established to combat this vital link in the illicit drug production chain. The depth and richness of the report will depend on the follow-up that is undertaken into this subject. It would therefore be a good idea to let Mr. Antonio María Costa, the General Undersecretary to the United Nations Office on Illicit Drug Issues and Offences, whose main office is located in Vienna, know how important his report is to Colombia, as an essential element for reinforcing the fight on illicit drugs. Visits should also be made to the specialist UN officers in Vienna who are in charge of technical matters in connection with the drawing up of the document.

3.2.2. Progress Made and the Need for a National Diagnosis of Precursors and Further Action

The Deputy Minister of Justice has supported the initiative of this advisory service to the effect that an inter-institutional work team should be formed to undertake a national diagnosis and propose action that will improve controls and stop smuggling and the diverting of the chemical substances that are usually used in the production of illicit drugs. Six meetings have been held as part of this initiative, and a draft document is being drawn up, containing conclusions and a national diagnosis. Logistical and support limitations on this advisory service mean that this activity cannot progress more rapidly. I am therefore including it as part of the proposal that a team be formed in the Ministry to proceed with and coordinate the initiatives proposed.

3.2.3. The Afghanistan Experience for Colombia

A technical report by the International Narcotics Control Board (INCB) in 2003 about chemical products that are frequently used in the illicit production of narcotics and psychotropic substances urges, quoting the Asia region, that the offer by members of the Operation Topaz task force and experts in Afghanistan, namely Germany, the United Kingdom and the United States, be taken up so that

research can be done in order to identify the origin of the acetic anhydride that was seized. We would like to take advantage of this experience to set up a similar force in Colombia, and to include not only acetic anhydride but also potassium permanganate, as these are the two key substances in the production of heroin and cocaine. Colombia has recognised that it is very weak on this question of research and locating where precursors come from, and this is why a few months ago I sent a letter to the Director of the National Police Anti-Narcotics Division, requesting that he pay special attention to the matter, although I have not received an answer from him as yet. This furthermore shows that there is a need for top-ranking government support to be made clear to whoever is to be responsible for these tasks. We should also reinforce precursor controls using measures like those introduced in Afghanistan, and international cooperation is of vital importance for this.

By the way it is frustrating, that despite the sharp reduction in illicit opium production in Afghanistan of 94% from 2000 to 2001, due to the ban by the Taliban regime, resulting in Afghanistan producing just the 12% of the world illicit supply; this latter figure rose sharply the following years, and by 2002 and 2003 illicit opium production in Afghanistan had increased to an astonishing 76% of the world supply, when the most powerful nations, led by United State are in Afghanistan fighting against terrorism and what finances this, namely drug trafficking. How could this fact and experience have been applied in Colombia?

3.2.4. The International Community should Monitor the Destruction of Drugs and Precursors that are Seized.

Further to conventions on illicit drugs, and as control and anti-corruption measures, Colombia should implement an international monitoring programme with respect to the destruction of illicit drugs and precursors that are seized. Whether precursors and drugs that are seized are really destroyed depends to a large extent on the good faith of the different parties involved. It is nevertheless not pointless to think that these products, which represent "virtual cash", are a clear source of corruption. We have already seen various scandals in recent months where drugs have been returned to traffickers, not to mention the serious situation that arose in Guaitarilla. Controls must therefore be established which will guarantee the country and the international community that the quantity and quality of drugs which are seized are the same as those that are really destroyed. In truth, the actions of certain officials working for foreign international cooperation organisations do not offer the necessary openness guarantees in this country, and their backgrounds are not particularly recommendable either, as these have been questioned. This is something that has been well documented by the media both nationally and internationally. **Colombia should prove from the facts that it has not sacrificed its finest sons in vain in the fight against drug trafficking.**

3.2.5. International Judicial Action against Favouring Smuggling and the Diverting of Precursors

The smuggling suit against the tobacco companies British American Tobacco and Philip Morris, in which the Colombian state was a party, needs to be borne in mind here. I understand that these companies have now reached a settlement with the European Union, but that negotiations with Colombia have not yet concluded.

This action, involving going to court over negligent conduct or conduct which voluntarily ends up favouring smuggling, has proved in the case of cigarettes to be an effective measure for substantially reducing cigarette smuggling. The multinational tobacco companies, which trade vast quantities of their products and vast sums of money, have been forced to manage their business much more carefully, because although they have not been convicted of illicit activities like smuggling or money laundering, they have nevertheless been forced to come to a number of out-of-court settlements in order to avoid such convictions. The United States judicial system allows them to do this. (It should be stressed that the proposed sale of Coltabaco to Philip Morris does not imply any impairment of the Colombian state's claims that are in progress, and I say this particularly because it was through this Ministry that the state became party to those proceedings).

Under this *modus operandi*, Colombia should seriously explore the possibility of an international investigation which would enable it to observe and evaluate the production, sales, export and distribution controls of the companies involved in this type of activity with chemical substances that are usually used in illicit drug manufacturing. Colombia cannot content itself on this issue with declarations of goodwill in settings like the United Nations from countries where these precursors are produced, but should set in motion every course of action that will force the producing states and companies to adopt serious measures on the question.

3.3. Prevention and Control of Illicit Crops in Indigenous Territories and National Parks.

3.3.1. Respecting the Autonomy of Indigenous Peoples

As indigenous territories are regional entities, they should be treated accordingly. This means that the fight against illicit crops within their boundaries cannot be restricted to merely meeting the formal requirement of "consulting" the indigenous authorities before their territories are fumigated. The national government should agree with the indigenous peoples on activities that will prevent illicit crops being planted, where the indigenous peoples themselves play an active role in the action that is agreed upon with the national government for dealing with this serious problem. Indigenous groups and their territories are an invaluable part of

Colombia's heritage, and the best way to protect this heritage is to strengthen the indigenous groups and to respect their autonomy. We cannot clone the American model for treating indigenous groups, as this destroyed them morally, economically and culturally. The activities carried out in Colombia by the American Embassy, based on its aid model for indigenous peoples, only confirm this. Our indigenous groups have given the country countless examples of the consequences of this line of action, when their sticks and collective action have forced guerrilla and paramilitary groups to respect them and when they have gone on civic and patriotic protest marches, such as the recent one along the Panamerican Highway to Cali, claiming their right to self-determination over the centralised institutions of the state. But those institutions abandon them and attack them when the answer is to fumigate their territories, and moreover when this has been done without the consultation prerequisite being met that is stipulated in the ILO agreement, and careful interpretation of the Constitutional Court judgement.

3.3.2. A Strategy other than Fumigation Works against Illicit Crops

At ecosystem level, the national park system and the indigenous territories are the best guarantees that the ecosystem will be preserved. If we look at the results of the 2003 illicit crop census that was carried out under the SIMCI II Agreement, the figures are instructive. No fumigation activities were undertaken in the national parks in 2003, and the falling trend in the number of illicit crops there since 2001 has been maintained, declining from 6,057 hectares to 3,790 hectares in 2003. This seriously questions the view that fumigation is the only way to reduce the numbers of these crops, since the Ministry of the Environment carried out coordination activities in the national parks and areas of influence between communities and settlers. However, that this success in the national parks will revert and the expansion of illicit crops in indigenous territories will become more serious is more latent than ever. When to the reduction in supply because of fumigation and the rising prices due to demand are added the statements by the President of the Republic to the effect that the land where these crops are grown will be expropriated, it will be impossible to hold back the pressure to cultivate this land, given the legal status it enjoys under the terms of the national constitution, which proclaims that it is "inalienable, imprescriptible and unattachable". What is required, therefore, is for national park and indigenous territory ecosystems to benefit from joint actions and strategies that do not cause them harm.

3.3.3. Need for Maps and Geography to be Updated of Territories that Enjoy Special State Protection

It cannot be denied that protecting indigenous ethnic groups and national park ecosystems from illicit crops and all the problems these cause should be a state priority. This is why indigenous territories and national parks should be adequately monitored, with the views expressed by the National Narcotics Council in July

being set in motion, namely that there is a need for the geographical and mapped boundaries of these territories and parks to be accurately updated, so that the SIMCI II Agreement can provide better illicit crop monitoring results. The way should thus be made clear for this updating process.

3.4. SIMCI II Agreement

3.4.1. A Cornerstone of any Overview of the Drugs Problem

The SIMCI II Agreement (Integrated Illicit Crop Monitoring System, Phase II), which was signed by the UN, through the Office on Illicit Drug Issues and Offences (UNODC), and the Republic of Colombia (Ministry of the Interior and Justice and the then Colombian International Cooperation Agency - ACCI) is a fundamental illicit crop monitoring tool. The work done by this advisory service has been successful in getting top government to better understand and appreciate its work. We have currently reached the second stage, where there is a need for every possibility to be grasped of having a team and methodology available for observing and monitoring coverage on the ground, something that is currently limited to observing illicit crops but where there will be many varied and fruitful uses in the future. Satellite technology has enabled the first and second phases of the Agreement to report five annual coca crop censuses, the last four of which have covered the whole country, and these have been accompanied by valuable information and analyses. Despite what an agreement that is so politically and technologically important means to the country, the previous government gave it a low profile, which resulted in its figures being little known. A more beneficial Agreement was designed under this advisory service, one which addressed the illicit drug problem for the country in more general, overall terms, by bringing in an inter-institutional group that could absorb and benefit to a large extent from the potential of annual satellite images of the entire country. Because of this, the Ministry of Agriculture boasts an observatory that can monitor land uses and agricultural planning, and similarly, the Ministry of the Environment and the Special National Parks Unit can observe deterioration in or reforestation of hydrographic basins and supervise the preservation of these strategic ecosystems. The Ministry of Social Protection and the Special Financial Analysis and Information Administration Unit - UIAF - will make up the Geographical Information System - SIG, which will allow suspect financial movements and the routes these follow to be understood and visualised, and will also enable illicit drug taking and diseases that could emigrate depending on coca grower mobility, such as yellow fever, to be supervised. The National Narcotics Division benefits, amongst other ways, in terms of its studies into the pollution of bodies of water in growing zones and coca and poppy transformation. The National Police are already training suitable personnel

to interpret images and edit space maps as part of their daily work interpreting illicit crops; the police will perhaps find this work useful in the none-too-distant future for setting up a real technical group of forest wardens who will work in conjunction with the environmental authorities. And finally, the Agustín Codazzi Geographical Institute will boast well-processed images that will support annual map updates. The extent to which the enormous potential offered by the SIMCI II Agreement is made use of will depend basically on the far-sightedness of those in charge of the entities.

The SIMCI II Agreement and the inter-institutional group have a headquarters that is functional and adequate for their purposes, where each inter-institutional group member has an office that boasts the latest computer programmes and the necessary tools for performing his duties to the best of his ability.

3.4.2. The Drug Problem should End but SIMCI II should Remain in Colombia

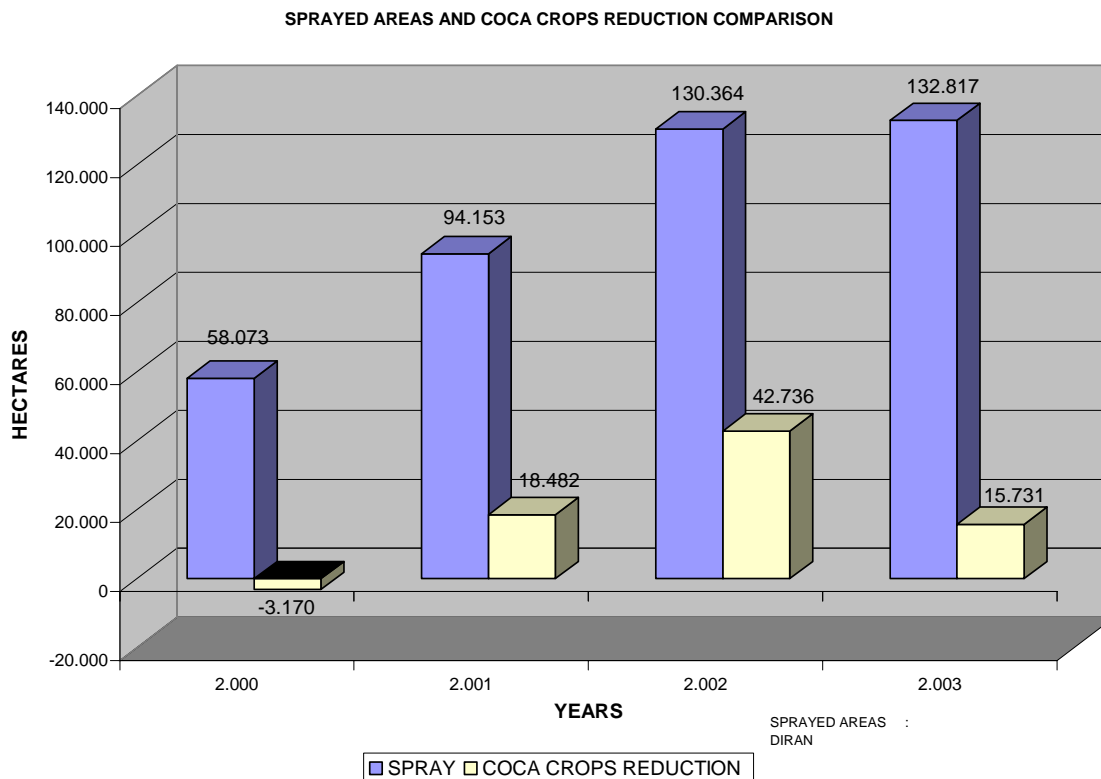
The challenge of making the SIMCI II Agreement sustainable takes on even greater importance if it is remembered that the Agreement ends on 31 September 2006, by which date Colombia should have the technical, legal and budgetary capability to receive this technological infrastructure and to continue using it. The Ministry of the Interior and Justice should go on lending its full political support to the course that is marked out in the Agreement, by setting up a special administrative body attached to the Ministry. The path that development is to take consists of a reinforcement of the entire Inter-Institutional Group. The process of getting this group, which has been summoned on several occasions by the Minister of the Interior and Justice, up and running has nevertheless been a very slow one. Thus, if the entities that are supposed to benefit from the Agreement do not join in, I would suggest consulting ACCI, the agency used by the Presidential Adviser for Social Activities, and UNODC, with a view to the Agreement being brought under the wing of the most closely related-entity, which is the National Statistics Department - DANE, so that DANE could take on all the tasks described. Although this procedure would not be ideal, it would represent a positive step, because the Colombian state would not lose this magnificent technological development tool.

3.5. Fumigation. (Fumigation is understood in this text to refer to the Illicit Crop Eradication Programme Using Glyphosate - PECIG. **Colombia is the only country in the world that uses aerial fumigation of illicit crops**).

3.5.1. The Financial Silliness of the Strategy

As I said in an earlier memorandum dated 24th June last, entitled "True Illicit Crop Results", 2003 was the year when the worst illicit coca crop results were recorded since 2000, and it was also the one when the economic costs of reducing the number of illicit coca crops were the highest.

Let's look at the coca crop reduction figures, compared with fumigation,



- a. The reduction effectiveness figure for 2003 was almost two thirds lower than the year before, and was anyway the lowest in the last three years. This can be verified by comparing the figure for the reduced number of hectares of coca crop with the fumigation intensity figure. An inverse trend: that is, 132,817 hectares were fumigated, yet the effect was only 15,731 fewer hectares of coca.
- b. The presence of new crops was recorded, or increases in areas that are not waste land or remote parts of the country, such as Caldas, Boyacá and south east Antioquia.
- c. The costs (USA Cooperation) of reducing coca crops by means of fumigation were highest in 2003, if we compare them with a reduction figure of 16,000 hectares. Conservative calculations have shown that it costs USD626 to spray one hectare. If we multiply this by the number of hectares sprayed - 132,817 -, we get a total of USD82,500,000. If we then divide this figure by the total hectares reduced, 15,731, we are left with USD5,243. In

other words, to reduce the number of hectares under illicit coca crops by almost 16,000 costs, in Colombian pesos, even though this money is not contributed by Colombia, somewhere in the region of \$223,987,500,000. This merely confirms the unbalanced nature of such an overall strategy and its obvious marginal effect in terms of winning the fight. It also confirms what I said earlier about there being very little room for European Union cooperation, when Plan Colombia, which is so financially unbalanced, asks the European Union to take action like the Red Cross while the United States engage in military action. To get an idea of how much fumigation cost in 2003, we can compare it conservatively with the annual budget of a number of organisations. It is equivalent, for example, to the annual budget of the Ministry of Agriculture, or that of the Ministry of the Environment, Housing and Regional Development, or twice the annual budget of the National Housing Fund.

In short, we cannot talk of 2003 having been a successful year for the fumigation strategy, even though it was accompanied by other strategies like air interdiction, despite the increase in the number of laboratories destroyed, a record number of Colombian nationals extradited, and greater quantities of drugs seized. In other words, the Plan Colombia strategy does not constitute a complete, overall assault in this fight. Moreover, demand in the main destination for this illegal market, the United States, has been rising since 2001, according to UNODC world drug report figures.

3.5.2. International and Constitutional Legal Protection, but no Application

Before entering the field of the effects that fumigation has on health and the environment, we should point to a number of provisos that the Ministry of the Interior and Justice should take on board as part of any policy which respects international and national law when promoting the design of measures against this scourge. And United Nations recommendations moreover reconfirm this. To give just one example of these normative precepts, which have been incorporated into the national constitution, Article 14 in the United Nations Convention on the Trafficking of Narcotics states that "every state should adopt appropriate measures to prevent illicit crops and to eradicate plants containing narcotics or psychotropic substances such as opium, coca bushes and cannabis plants which might be grown illicitly in its territory. **The measures adopted should respect fundamental human rights and take traditional licit uses and protection of the environment into account**". There can be no doubt that this constitutional framework is the correct way ahead and should be followed by any democratic state. National prevention policy, however, is notable for being quite the opposite, for being reactive, and as far as protecting the environment and correctly respecting human rights are concerned, fumigation is, to put it one way, a grey area.

3.5.3. Exercising Power as a Source of the Fumigation Strategy without Legal Justification. What about the Health of Humans and the Environment?

On the subject of health, there are no sound arguments that can be put forward to claim that the fumigation strategy does not have negative effects on health and the environment. So true is this that Colombia has just signed an agreement with the OAS to carry out research into the effects of fumigation on health and the environment. In other words, we really do not know its effects, and all that is put forward to justify this blind action is a certificate by the United States Secretary of State to the effect that fumigation is not harmful to Colombians. In view of this situation and the need for official analyses or follow-up through epidemiological studies, I had the opportunity, at the first meeting I attended on 23rd April last of the Inter-Institutional Work Group, which acts as advisory body to the illicit crop eradication programme, to ask the National Health Institute - INS - for a report on the matter for future sessions of the Group. At the second meeting, on 14th September last, I was able to see for myself this staggering state deficiency. For it is only now, after so many years of illicit crops being sprayed from the air in this country, that a start is being made on a pesticide intoxication training and supervision programme in the field of public health. But there is no definite date for results to be obtained in the short term, because 100 samples are being actively searched for, and the clinical aspect of these still has to be completed, together with laboratory and epidemiological analyses. In other words, the Colombian state has been implementing its fumigation programme - and what is worse, even intensifying it - without being clear what effects it might have on health. But there is an even more worrying ingredient: the INS study is aimed at determining acute effects, in other words effects on the skin and mucous, but not chronic ones such as evaluating whether there are cancer or genetic consequences. When you, Mr. Minister, asked me in your office a few weeks ago why I was opposed to fumigation, I put forward arguments to the effect that the strategy suffered from a lack of effectiveness. Now I have new facts available to show that action of this magnitude in the country has been a national absurdity, an example of great social, moral and ethical irresponsibility. A political certificate from the State Department in the United States or statements by US authorities to the effect that fumigation is harmless and inoffensive simply cannot be enough in themselves for authorising a strategy of this magnitude. Nor can the recent State Council decision to revoke the suspension of fumigation ordered earlier by the Cundinamarca Supreme Court, when we are progressing blindly on this matter. The responsible thing to do, Mr. Minister, is to stop fumigation now.

The Spanish daily newspaper 'El Mundo' recently carried a report entitled "THE CHILDREN OF THE ORANGE AGENT", dated 6 February 2004, which told the story of villages in Vietnam that were fumigated with herbicides during the fight there. The report states that up to four generations of youngsters have been handicapped by problems ranging from deformations of the arms and fingers to being born blind. Glyphosate and the products used in conjunction with it perhaps do not have the proven dangers of the orange agent, but Colombia cannot afford to wake up one day like Vietnam and find that it has deformed children or children with chronic health problems, due to effects that could already be silently rife and on the rampage in human beings and the jungle. We have seen with you the industrial safety measures employed by those who handle these chemicals at the air bases that are used for the fumigation activities, people swathed in yellow waterproofs and wearing gloves and masks. A herbicide is a herbicide, Mr. Minister.

As Ministry representative to the PECIG Programme Inter-Institutional Work Group, I can say that if this is the situation as far as health is concerned, the environmental issue is no better. I will give details in a later section of SIMCI II Agreement observations and fumigation strips, where evidence can be seen of repeated fumigation, that is, the same section of land being fumigated more than once. I would not like to end this section without repeating that there are no arguments that can be put forward by the Colombian state to justify its action, not only because of what I have said but because there is a specific regulation, which has been incorporated into the country's constitution because it is an international convention that has been ratified by Colombia, namely the said Article 14 in the 1988 International Illicit Drugs Convention, which states that illicit crop eradication strategies should respect fundamental human rights and the environment. The United States also ratified this regulation, but it too fails to keep to it, by promoting such a strategy and moreover providing the necessary funds, personnel and training for it.

3.5.4. Fumigation and Foodstuff-Transmitted Illnesses

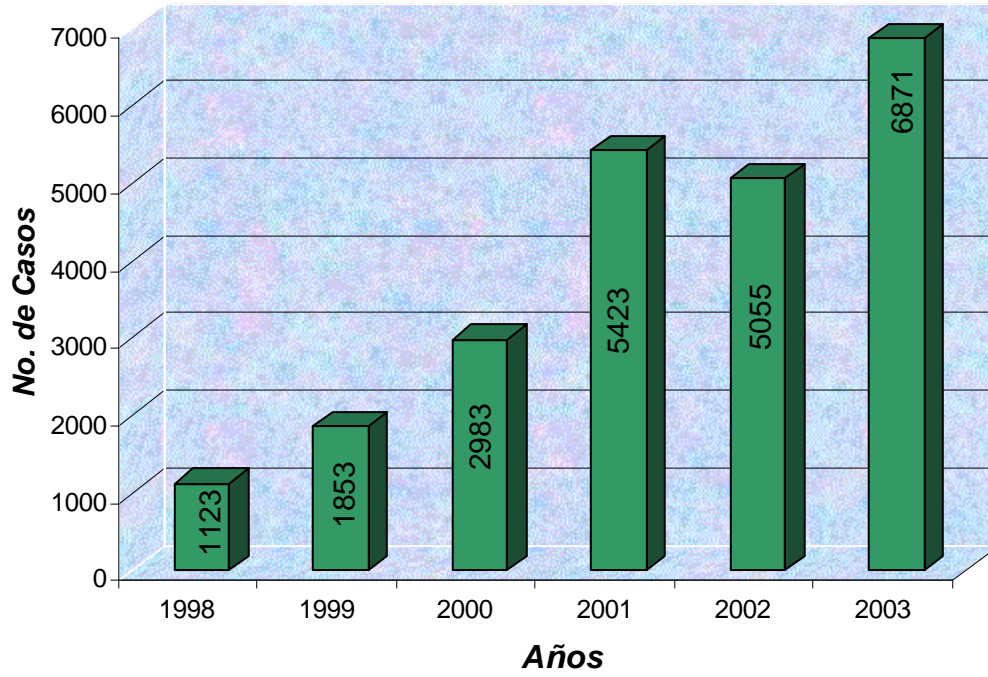
Continuing the health and fumigation theme, I would like to turn to a report by the National Medicines and Foodstuffs Supervision Institute - INVIMA - which demonstrates that statistical analysis tools exist, and that the results of using these raise serious and worrying concerns which warranted an in-depth study of the relationship between health and fumigation before the aerial eradication strategy using Glyphosate was authorised and implemented.

Let's do a crosscheck between the clear increase in illnesses caused by foodstuffs and the increase in illicit crop fumigation activities. According to year-by-year data supplied by INVIMA and the Anti-Narcotics Police for the years 1999 - 2003, the correlation between the two variables - the increase in illnesses caused by

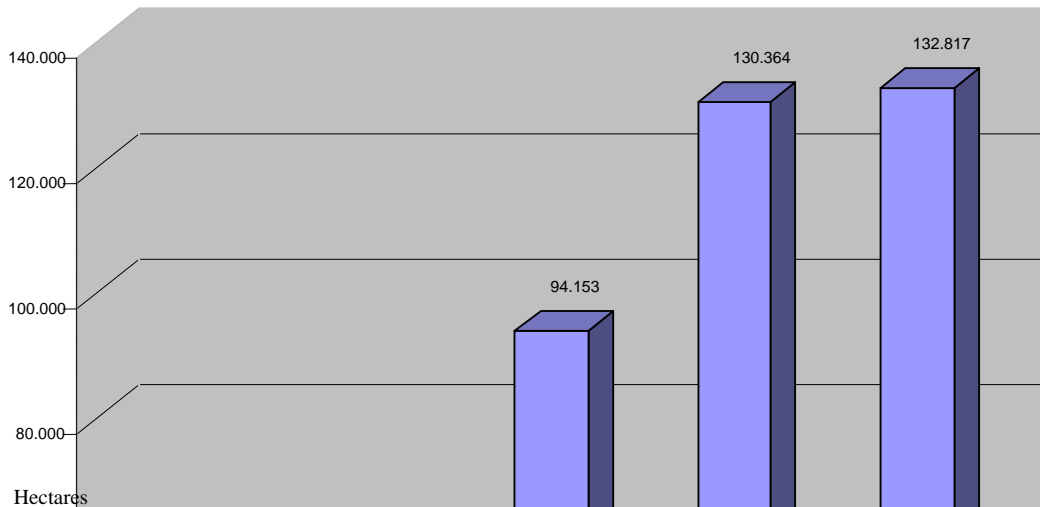
foodstuffs and the increase in fumigation activities - is extremely high (0.91), and there is a high determination index, too (0.83). So that these figures can be understood better, it should be said that the correlation index shows us whether the ratio is inverse or direct, while the determination one offers a possible explanation for one variable with respect to the other. If the two indices are statistically significant, which they most definitely are in this case, it is a clear indication that alarm bells should have rung long ago. To get an idea of how important ETAs (foodstuff-transmitted illnesses) are today, we can say that "they are no longer just discomfort that causes diarrhoea, vomiting and fever. A list of approximately 250 illnesses has been drawn up, and it has been demonstrated that ETAs cause complications and after-effects ranging from meningitis, arthritis and immune system disorders to cardiovascular disease, neoplasia, permanent physical disability and allergies. This is why ETAs have been considered to be one of the most serious and worrying public health problems today. But if they are added to the factors listed below, what we have is a problem which has an estimated annual cost worldwide of between 7.7 and 23,000 million dollars in health care and lost productivity".

Source: Siviglia

Distribución de Casos de ETA en Colombia años 1998 a 2003



Sprayed Areas -PECIG-



3.5.5. Licit Crops and Illicit Crops

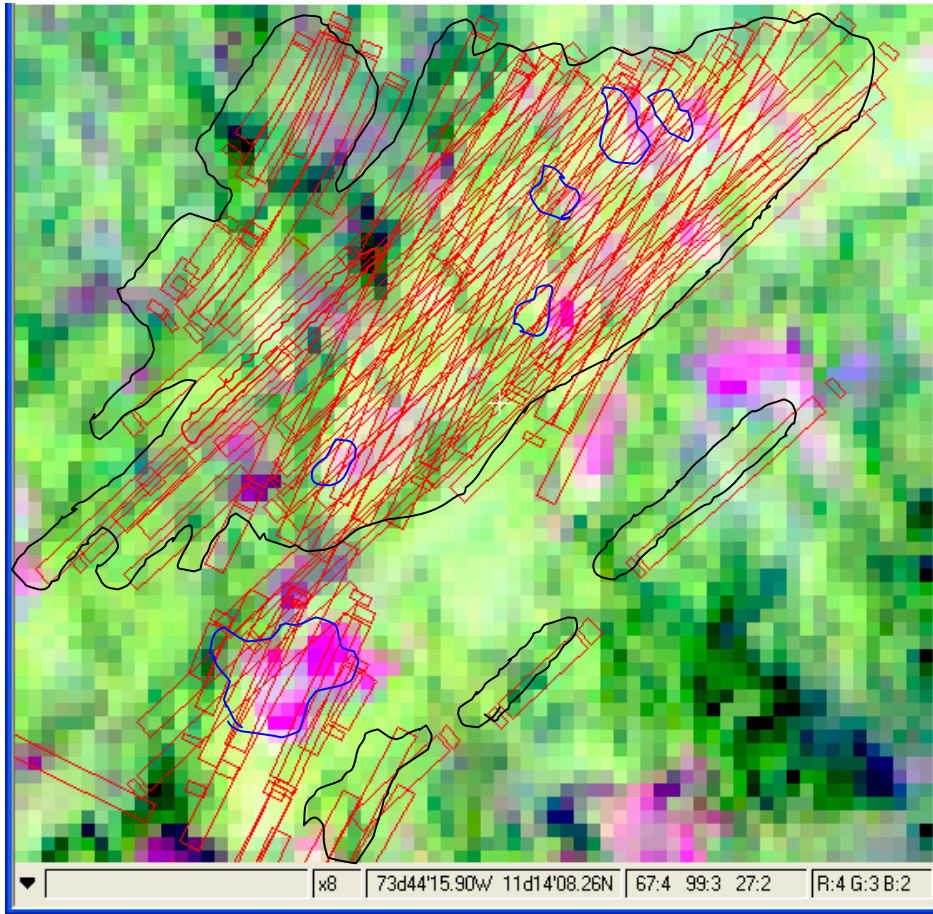
Within the above normative framework, I should also point in this context to the use of fumigation on land belonging to a poppy or coca grower who intersperses illicit crops with crops of potato, coffee, cassava or plantain. It is easy to deduce that this interspersing of illicit and licit crops by the peasants is intentional, but it does not mean that the state has the right to impose a summary punitive measure such as widespread fumigation. If the peasant or grower breaks the law with his crop, he should be penalised because the law has been broken, and as is only logical in a democracy, the penalty should be imposed as the result of judicial action, where the peasant can explain the circumstances, which will enable the judge to graduate the punishment accordingly. But the state cannot impose a summary penalty of fumigating his cash crops. **This fumigation policy bears no relation to the social situation in the country. Colombia could deal with this type of situation in a much more general, overall manner, but “the democratic security policy” attached to the restrictive and exclusive nature of the Plan Colombia strategy that was drawn up between the United States and Colombia, which shut out such an important player on the world stage as the**

European Union, has closed doors. I have no doubt that if the strategies were to be reconsidered openly, we would be able to boast more allies and more funds.









3.5.6. Fumigation on the Sierra Nevada de Santa Marta

Following on now with the subject of fumigation, thanks to the SIMCI II Agreement we have recently been able to see fumigation lines that were made in July this year on the Sierra Nevada de Santa Marta, to act as a buffer zone so that the true area fumigated could be measured. We find that fumigation lines have been superimposed, which means that some land was fumigated more than once. If areas are sprayed time and again, the concentrations and quantities approved in the PECIG Programme are altered. I would recommend that the annual SIMCI II report should include aerial spraying maps, and that SIMCI II be included as part of the inter-institutional group in the PECIG Programme environmental management plan, as a way to improve environmental auditing of the DNE fumigation activities. Let's look at the fumigation strips.

SPOT IMAGE 644327, 31 AUGUST 2003, VS. JULY 2004 FUMIGATION
BUFFER ZONE



SYMBOLS

	Primary Forest		Fumigated Coca Area
	Secondary Forest		Fumigated Area, Other Coverage
	Pasture and Low Stubble		Unfumigated Coca Area
	Illicit Coca Crops		Fumigation Buffer Zones

3.6. Air Interdiction.

Air interdiction, which recommenced in August 2003, envisages the downing of aircraft suspected of transporting drugs. In the opinion of this advisory service, this is unacceptable. It is inadmissible, and we should reject the idea that the air force can down an aircraft if it suspects that it is carrying drugs. This is quite simply summary execution. As I said in the previous paragraph, if someone commits an offence, he has the right to be heard at trial, so that the judge can graduate the punishment; and the Ministry of the Interior and Justice should be perfectly clear that this possibility exists. An agreement with the United States which envisages or suggests, implicitly and explicitly, that its advisors and detection equipment can locate a suspect plane but that the air force should then effectively 'pull the trigger' is outrageous. Action of this nature, with or without advice from the American government, consisting of downing an aircraft because it is suspected of transporting drugs, even if it were true that it was doing so, would not be taken even in the United States. It is nothing less than a typical example of punishment in the form of summary execution by the state. Neither the promoting government nor the executing one can escape its responsibility in this matter.

4. A Consultation on Sovereignty

Consultations should be carried out in Colombia, in the search for a real alternative in current policy against illicit drugs, and to consolidate national sovereignty. This would constitute the most profound and definitive response to this scourge. We should fine-tune the idea that Colombia should put to the international community via the United Nations, namely that the use of illicit drugs should be regulated (in much the same way as the recently-approved anti-cigarette convention) as the most effective mechanism to deprive not only the fight in Colombia of funds, but also international terrorism and organised crime. This proposal is an alternative to absolute prohibition and also to total liberalisation. It is as simple as that, and Colombians should be entitled to debate it in the open and put it to the world. As far as Colombia is concerned, this is the real, vital strategy for fighting the worldwide and national drugs problem. Colombia unofficially spends eight million dollars a day at present on the national government's security policy, 1.6 million of which are provided by the United States. We Colombians cannot go on bearing this gigantic burden on the military budget - 6.4 million dollars a day - if we are not to see our country get ever poorer as it fights various fights at the same time. We are repeating the history of many African countries. I have already mentioned for purposes of comparison just what the cost of the fumigation strategy, 235,000 dollars a day, means; in a year, this represents a figure equal to or even higher than the budgets of many state entities. How much would we therefore go back in social terms if we were to spend 27 times that figure?

But the fight on drugs not only makes us poorer, it also destabilises the country's institutions. The best policy is therefore to take the drug dealers' and terrorists'

funds away from them. And we are proposing not just the only realistic possibility, but also what is socially just and politically fair.

5. Conclusion: The Position of President Virgilio Barco

It is because of all these proposals and reflections that Colombia needs to stop and meditate deeply, to channel actions, so that the government can play its role of guiding body generously and always think when it acts, as this advisory service does, of what will bring the greatest benefits to the country. It is worth reminding top government particularly, and perhaps the Chancellor Carolina Barco is the best person to do this, of possibly the most famous speech that any president has ever made to the world, at a time when Colombia was going through one of its most difficult moments. But I leave it to Apolinar Díaz-Callejas, a columnist on the Barranquilla newspaper 'El Heraldo', to faithfully reflect on what this meant for the country. "I recall the historic speech on drug trafficking by President Virgilio Barco to the United Nations General Assembly on 29th September 1989. It was not against Colombians.....it was against the owners of the business, the Americans. The former Colombian president said 'Drug-taking fuels terrorism.... Here, just a few blocks away from where we are sitting, there are large number of American youngsters freely taking cocaine and drugs. And that cocaine is not here because it comes from Colombia or Peru, but because the owners of the drug business are American investors who cannot be penalised, yet they want us to punish our people because we produce something that they buy from us. Until such time as the United States faces up to its responsibility on this question, no solution whatever will be possible to the drug trafficking issue'. The General Assembly stood up and applauded Barco warmly". The truth of the matter is, Mr. Minister that the United States has still not faced up to its responsibility with respect to this scourge, either with its Plan Colombia, its actions, or its prerequisites. I am not trying to open up the debate to include the fact that the supply has shot up because of the demand for drugs in the developed countries. Or that this supply stimulates the local crime rate and meets a demand, with the only incentive that it is not capable of financing fights or terrorists. I want to say that Colombia has gone back on this minimal agreement for overall, concerted, worldwide action that was agreed at the UN in 1998, and has returned to the 1980s position, when Ronald Reagan commanded the fight on drugs. If we are responsible for the supply side, then we should do the job well and know how to claim the tools for doing it well from the international community; and there is also a need for an understanding of what shared responsibility means, so that Colombia does not have to go on offering up its land and its dead and spending its resources in a fight we have been led into through the fault of those who govern us. I am convinced that the proposals and reflections contained in this document, especially the last one, indicate the way forward so that Colombia can get out of the cul-de-sac it has been led into, the vicious circle whereby the fight will not come to an end until the drug

problem has been eradicated, or that the drug problem will not be eradicated until the fight has come to an end.

I have attempted in this document, which gives priority to some of the issues in this national drama, to contribute to the discussion of and help overcome a problem that is affecting every action the state takes. I believe it is possible, Mr. Minister, to make critical proposals from within public administration, and I am accordingly submitting this document to you with the best goodwill and in all good faith.

I trust I have been able to contribute to a national, and hopefully international, discussion, so that the debate can also look at other issues in this intricate problem, such as money laundering. Additionally so that the world can be reminded of dangerous realities and the devastating consequences of these, which have not changed, such as what the International Narcotics Control Board (INCB) said in its 1996 world report: "The biggest illicit drug market in the world is in the United States".

Bogotá, D.C., Thursday 14th October 2004

Honourable Minister
SABAS PRETELT DE LA VEGA
Minister of the Interior and Justice
Bogotá, D.C.

Dear Minister,

As part of the proposals I put to you for "A New Stage in the Fight on Drugs", I now have pleasure in submitting the final version, which combines and complements the two earlier versions. This document consolidates a contribution by the Colombian area in the fight against the worldwide drugs problem, with a view to it leading to a discussion in the state, as I have already been able to inform you.

Yours faithfully,

ALBERTO RUEDA
Ministry Adviser

c.c. Mario Germán Aguarán Arana, Deputy Minister of Justice
Juan Carlos Vives Menotti, Deputy Minister of the Interior