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MEMORANDUM

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To: Colleagues and legislative staff

From: Adam Isacson (isacson@ciponline.org)

Re: **Colombia's peace talks with paramilitaries: conditions for U.S. support**

In December 2002, the Colombian government embarked on a slow-moving process of peace talks with the United Self-Defense Groups of Colombia (AUC), a collection of right-wing vigilante or "paramilitary" groups. Paramilitaries have cut a bloody swath through Colombia in the more than twenty years since landowners, drug traffickers, and the Colombian military began setting up these so-called "self-defense groups" to defend against leftist guerrillas. Since the 1980s, the AUC and its forerunners have killed tens of thousands of Colombian civilians, and forced hundreds of thousands from their homes.

While occasionally benefiting from the Colombian security forces' support or toleration, the AUC has grown to roughly 20,000 members. They control a large amount of territory, exercise much political and economic influence, and – according to U.S. Ambassador to Bogotá William Wood – directly control 40 percent of the drug trade in Colombia.¹

Though Colombian President Álvaro Uribe has granted the paramilitaries' leadership a small demilitarized zone in Santa Fe de Ralito, a town in Córdoba province in northern Colombia, the talks have made almost no progress toward a peace agreement. However, a planned demobilization of 3,000 AUC members, to take place between now and the end of the year, is likely to generate a rush of optimistic media coverage and public statements.

But there is no cause for optimism; this process is not going well. In fact, the paramilitary talks risk prolonging – not ending – Colombia's longstanding cycle of violence and impunity. They risk an outcome that "legalizes" or legitimizes the practice of paramilitarism in Colombia. And they simply risk collapse under the weight of their own contradictions.

Support from the United States can help minimize these risks and guarantee the talks' success. **But we will do far more harm than good – and we will waste our money – if we support the talks in their current form.** Our money will be poorly invested – and could make things worse – until we help the Colombian government to meet **five very basic conditions**. First, a cease-fire requirement must be respected. Second, recently arrived paramilitaries who are notorious narco-traffickers must be excluded from the talks. Third, the Colombian government needs to improvise far less, especially where demobilization is concerned. Fourth, the Colombian government must have a plan for guaranteeing security in formerly paramilitary-held zones. Fifth, a reasonable framework for justice, truth and reparation – not an amnesty deal – must be in place.

¹ Cited by the International Crisis Group; see <http://www.icg.org/home/index.cfm?id=2901&l=1>.

1. **If the Colombian government requires paramilitaries to declare a cease-fire while talks occur, the paramilitaries must respect it.** Colombian President Álvaro Uribe set one pre-condition for peace talks with any of his country's illegal armed groups: he would not talk with any group until it first agreed to a unilateral cease-fire. The AUC did so in December 2002.

The pace of the paramilitaries' killing has since slowed; this is a key reason why Colombian government statistics show a decline in violence since 2002. But **the paramilitaries have not stopped killing civilians.**

Cease-fire violations have been routine, and usually the government, rather than threatening to get up from the table, hardly acknowledges them. On October 3, the Colombian government's human rights ombudsman (*Defensoría del Pueblo*) announced that it had received 342 complaints of paramilitary cease-fire violations in eleven of Colombia's thirty-two departments (provinces) since December 2002. Nationally, the Colombian Commission of Jurists cites a far higher number of violations: between December 1, 2002 and September 10, 2004, the respected human-rights group reports, the paramilitaries killed or disappeared at least 1,895 civilians "in actions not directly related to the armed conflict."²

Among recent violations are some high-profile cases:

- In August, paramilitaries killed Freddy Arias, a leader of the Kankuamo indigenous group, in the northeastern city of Valledupar.
- In September, paramilitaries killed Alfredo Correa de Andreis, a professor at Barranquilla's Simón Bolívar University. Correa, a leading local advocate of human rights, had been arrested and charged with helping guerrillas a few months earlier; he was shot shortly after being released for lack of evidence.
- In October, paramilitaries in Medellín killed Teresa Yarce, a community organizer in the conflictive Comuna 13 neighborhood.
- An October massacre of at least 11 people at a resort in Candelaria, Valle del Cauca – part of an ongoing war between drug traffickers in the area – appeared to involve paramilitaries. The UN High Commissioner for Human Rights' Bogotá field office issued a statement noting that "this mass killing appears to constitute another clear violation of the commitments the paramilitaries have made at the Santa Fe de Ralito negotiating table."³

Even the office of the Colombian government's peace negotiator (High Commissioner for Peace) recognizes a (far smaller) number of cease-fire violations in periodic reports.⁴ For its part, the OAS support mission (MAPP-OEA), which is charged with verifying the cease-fire, has noted in reports issued in May and September that violations are a problem.⁵

Instead of forcefully denouncing these violations, however, the OAS has chosen to downplay them. The September report, which contains the most extensive discussion of cease-fire violations, devotes more space to a repetition of the Uribe government's statistics showing a

² See <http://www.coljuristas.org/sentencia.htm>. For a list of each of the 1,895 cases, see http://www.coljuristas.org/documentos/documentos_pag/Violaciones_a_ddhh_e_infracciones_al_dih_paramilitares_fuera_de_combate_entre_1_dic_2002_y_31_ago_2004.pdf.

³ See <http://www.hchr.org.co/publico/comunicados/2004/comunicados2004.php3?cod=37&cat=15>.

⁴ See http://www.altocomisionadoparalapaz.gov.co/noticias/2004/mayo/mayo_28_04.htm?PHPSESSID=7a2e4031ae6efe899ebc411424cb46bb.

⁵ See <http://www.oas.org/documents/OEA-Colombia/inf-colombia-051104e.pdf> and <http://www.oas.org/documents/OEA-Colombia/inf-colombia-092804e.pdf>.

general decline in violence. "We are deeply concerned that the OAS is in fact abandoning its impartial verification role and locating itself openly alongside one of the parties in the current conflict," read a May 2004 letter to OAS mission chief Sergio Caramagna from dozens of Colombian human-rights organizations and political groups.⁶

The AUC's noncompliance casts strong doubt on the whole negotiation process. Since President Uribe had made the cease-fire a fundamental pre-condition, it has become an early test of the paramilitaries' will to negotiate in good faith. By violating their word so blatantly, the paramilitaries fail this test miserably. The result is mounting distrust at the negotiating table and weakening public and international confidence in the talks.

2. **The process must find a way to separate out, and avoid benefiting, the fugitive narco-traffickers who have recently joined the paramilitaries' ranks.** Had he been trafficking drugs and killing enemies today, perhaps Medellín Cartel leader Pablo Escobar could have avoided ending up dead on a Medellín rooftop, surrounded by smiling, photo-snapping policemen. Today, he could have put on camouflage fatigues, christened himself "Comandante" something-or-other, and bought himself a seat at the table in the Santa Fe de Ralito demilitarized zone. There, Escobar would have stood a decent chance of winning amnesty, or at least a vastly reduced penalty, for his past crimes. His presence at the table would also have stymied any U.S. attempt to extradite him.

This may sound farfetched, but it is happening right now for an entire corps of Colombia's top drug dealers. A wave of brand-new *comandantes* has swept the AUC leadership over the past three or four years: people with precious little experience fighting guerrillas but a long record as *capos* in Colombian narco-trafficking organizations. Among them are at least three of the twelve figures on the U.S. government's "wanted" list of members of the North Valle Cartel, Colombia's largest existing drug organization.

The difference between these new leaders and more "traditional" AUC *comandantes* may at first seem semantic, since today's paramilitaries got their start and get much of their support from drug traffickers' money. In addition to ordering mass murder, longtime paramilitary leaders have helped send prodigious amounts of drugs to the United States. As awful as they are, though, "old guard" paramilitary leaders like Salvatore Mancuso, Iván Roberto Duque, "Macaco" and Ramón Isaza can at least claim to have fought guerrillas and those they regarded as guerrilla sympathizers. The "new" paramilitary leaders can make no such claim.

It is not even clear whether they view the guerrillas as blood enemies or merely as rival drug mafias. In one celebrated example from February, when Colombian troops captured "Sonia" (Nayibe Rojas Valderrama), the "financial chief" of the FARC's Southern Bloc, they found e-mails on her computer asking the local AUC to lend a helicopter "to transport arms and drugs through the jungle."⁷

Here are some examples of recently arrived narco-fugitives currently in the Ralito zone talking

⁶ See <http://www.derechos.org/nizkor/colombia/doc/caramagna.html>.

⁷ For more examples, see a November 25 piece in the *Miami Herald*: <http://www.miami.com/mld/miamiherald/news/front/10268889.htm>

with government representatives.

- *Diego Fernando Murillo*, nicknamed "Don Berna" or "Adolfo Paz," is the AUC's "inspector-general" and, by some accounts, the group's most feared and powerful leader. His long biography includes time spent as a Medellín cartel bagman, a participant in a Cali Cartel-funded effort to kill Pablo Escobar, and leader of La Terraza, Medellín's feared, but now defunct, network of hitmen-for-hire and street criminals. He did not join up with the paramilitaries until 2000-2001.
- *Víctor Manuel Mejía Múnera*, nicknamed "El Mellizo" ("The Twin") but known in Ralito as "Pablo Arauca," is the head of the AUC's "Avengers of Arauca" bloc. Mejía, along with his twin brother, has long been on FBI most-wanted lists as a high-ranking figure in the North Valle cartel.
- *Francisco Javier Zuluaga Lindo*, known as "Gordo Lindo" in the drug underworld but in Ralito as "Comandante Gabriel Galindo," is the political chief of Don Berna's Pacific Bloc. He was an associate of the Medellín cartel's Fabio and Jorge Ochoa and later, a partner of narcotrafficker Alejandro Bernal Madrigal, or "Juvenal," who was captured and extradited in Operation Millennium, a large-scale 1999 drug sting. A court in Fort Lauderdale requested Zuluaga's extradition at that time, but he has evaded capture.
- *Ramiro Vanoy Murillo*, or "Cuco," heads the Mineros Bloc based in the province of Antioquia. Along with "Gordo Lindo," Vanoy is sought by the Fort Lauderdale court as an associate of "Juvenal."
- *Guillermo Pérez Alzate*, or "Pablo Sevillano," heads the Liberators of the South Bloc, based in the Pacific port city of Tumaco. He is wanted by Colombian police in connection with a shipment of 11 tons of cocaine. He also reputedly coordinated the North Valle Cartel's "mule" operation (recruiting women to board planes to the United States after swallowing sealed packets of drugs). He paid large sums to the AUC sometime after 2001 for control of southern Pacific coast narcotrafficking routes and for permission to wear the AUC label.
- *Rodrigo Tovar Pupo*, or "Jorge 40," runs the AUC's Northern Bloc and is based in and around the port of Barranquilla, Colombia's fourth-largest city. He allegedly controls the lion's share of narcotrafficking in Colombia's Atlantic Coast region, though he disputes it with Santa Marta-based paramilitary leader Hernán Giraldo.

North Valle Cartel leader *Diego Montoya Sánchez*, "Don Diego," perhaps the most wanted narco-criminal in the world, "is presently protected by the Colombian paramilitary group, 'Autodefensas Unidas de Colombia' (AUC)," according to his FBI wanted poster. (Montoya is on the FBI's worldwide Ten Most Wanted Fugitives list, alongside Osama bin Laden.⁸) Colombian news reports indicate that the AUC came close to granting "Don Diego" a position at the Ralito negotiating table (as the head of a new 150-man bloc, the "Heroes of Ríonegro"), but ultimately refused his request, considering him to be too important to harbor in their zone.⁹ Nonetheless, the AUC is reportedly protecting him somewhere in the Magdalena Medio region of north-central Colombia.

It is remarkable that the government of Álvaro Uribe – which takes such a hard line against the hapless peasants who grow the narco-kingpins' coca – has reacted so meekly to the growing presence of the kingpins themselves at the negotiating table. **If they get even some of the impunity they want, these narcos-turned-paramilitaries will have succeeded in a scheme so brazen that even Pablo Escobar could not have devised it.**

The narcos' presence makes a world of difference for Colombia's peace talks with the AUC. First, it makes U.S. support nearly impossible: a negotiation with longtime, unreformed cartel leaders – regardless of the insignia on their new uniforms – is still a negotiation with cartel leaders. Second, the new leaders are rapidly supplanting the AUC's old guard – even killing

⁸ See their pictures together at <http://www.fbi.gov/mostwant/topten/fugitives/fugitives.htm>.

⁹ See <http://semana.terra.com.co/opencms/opencms/Semana/articulo.html?id=83203>.

those who (like Carlos Castaño in April, or the Metro Bloc's "Rodrigo 00" in May) opposed the group's advanced narcotization and may have been seen as too likely to turn state's evidence. Under this new management, the paramilitaries are turning into a mafia, or rather a set of rival mafias united only by their common hope to negotiate an amnesty.

The Colombian government has made no secret of its unhappiness with current low levels of international support for the paramilitary peace talks. For donor governments, though, the talks will remain radioactive – utterly untouchable – as long as the new narco-fugitives remain at the table. **They have to go if this process is to have any credibility at all.**

3. **Demobilizations must not take place in the hasty, haphazard, improvised manner in which they have so far occurred.** Between November 3 and December 31, at least 3,000 of the AUC's approximately 20,000 members are to hand in their weapons and re-enter civilian life. In other words, a massive demobilization process – larger than what happened in Colombia over a decade ago, when the M-19, EPL, and several other guerrilla groups turned in their weapons – is to occur in a timeframe of about two months.

This would be a wonderful piece of news if the demobilization were part of a reasonably well thought-out, well-funded process. But it isn't. The coming AUC "layoff" leaves the impression that thousands of unemployed young men with violent backgrounds are being thrust upon a Colombian government that has little more than a hastily thrown-together plan for dealing with them, and probably doesn't have the resources even for this plan.

There is a plan, or "*cronograma*," in place, although it is remarkably rushed in comparison with demobilization efforts carried out in other countries and contexts. A first phase, covering roughly the month of November, has involved educating citizens and local governments in affected areas about what is to come, compiling lists of those who will turn themselves in, and concentrating paramilitary fighters in the zones where they will hand in their weapons.

A second phase, beginning at different times in different zones, will include several challenging tasks; incredibly, all of the following is to happen in only two to ten days. Fighters will turn in their weapons. Their identities will be verified. Minors will be sorted out and sent into the government family welfare system. Fighters will be interviewed to determine if they have any marketable skills useful for future civilian employment. All will undergo a background check to uncover allegations of past human-rights abuse. It is not clear how thorough this check will be, though, since Colombian authorities will be performing hundreds of them in less than ten days.

In a third and final phase, which the "*cronograma*" compresses into eight days, ex-fighters will return to their places of origin. The Colombian government will set up four regional "centers of reference" to serve a variety of needs: legal status, education, health, psychological adjustment, and a legal way to make a living. Each ex-fighter who participates in job-training or microenterprise programs will be entitled to \$125 per month for up to two years. Many will be given short-term employment performing tasks like manual eradication of coca, while local businesses will be given tax breaks for hiring ex-paramilitaries.

All of this is to be carried out in two months by a Colombian government that is so cash-strapped

and inefficient that displaced people in many areas must wait months to have their status "verified," people who have had their legal crops fumigated must wait months or years to have their compensation petitions resolved, and rural communities country-wide are still awaiting fulfillment of years-old promises to maintain roads, build schools or formalize land titles. What, short of a miracle, will guarantee that Bogotá has the political will to see this ambitious new commitment through?

And are the resources on hand? If done right, this will be a very expensive undertaking. The Colombian Treasury Ministry claims to have set aside 410 billion pesos (about \$160 million) for the AUC's disarmament, about \$8,000 per fighter. In a country that already has a ballooning fiscal budget deficit, it is not clear where Colombia's government plans to find even this extra 0.2 percent of GDP.

The experience of the first AUC demobilization gives further cause for skepticism. On November 25, 2003 in Medellín, 874 members of Don Berna's Cacique Nutibara Bloc (BCN) turned in 200-plus weapons in a ceremony that received a good deal of media attention in Colombia and some favorable coverage in the United States. They entered poorly funded education, job training and job placement programs, run largely by the Medellín mayor's office.

The International Crisis Group (ICG) and other observers have pointed out that many of those who demobilized – somewhere between 30 to 70 percent – were not even AUC members in the first place.¹⁰ It appears that, in the days before the weapons-handover ceremony, the BCN recruited hundreds of gang members, common criminals, and aimless young men from Medellín's slums to pose as paramilitary members and enter the process as free-riders.

Today, many ex-BCN members have returned to their former activities, dominating their marginal Medellín neighborhoods and controlling common crime and the local drug trade. The ICG reports that many "appear to remain in close contact with the AUC through a cellular phone network, to consult their commanders on important decisions, and to operate according to their strict hierarchy." As of August, the OAS verification mission reported, seven demobilized fighters had been murdered. Less than fifty have found work in the private sector, according to the Colombian daily *El Tiempo*.¹¹ Even the Colombian government's peace negotiator, the ever-optimistic Luis Carlos Restrepo, has called the BCN process "an embarrassment."¹²

There is reason to fear that the current demobilizations will repeat many of the same mistakes. The present plan does little to guarantee that the demobilized individuals will truly be removed from the paramilitary orbit. Most of the blocs about to turn themselves in co-exist geographically with other AUC groups. Will such active groups absorb, or at least exercise strong influence over, those who demobilize? Or as *El Tiempo's* editorial-writers put it, "What are the mechanisms foreseen to avoid a situation in which, two years from now, these zones are under the control of pro-'para' political movements, NGOs or cooperatives, this time legalized and

¹⁰ See <http://www.crisisweb.org/home/index.cfm?id=2901&l=5>.

¹¹ See http://eltiempo.terra.com.co/coar/NEGOCIACION/negociacion/ARTICULO-WEB- NOTA_INTERIOR-1846637.html.

¹² See <http://elpais-cali.terra.com.co/historico/oct152004/NAL/A215N2.html>.

legitimized?"¹³

These are just some of the consequences of a peace process that, for two years now, has consistently adopted a cart-before-the-horse, "let's see what happens next" approach. While some improvisation is necessary – negotiators have to be flexible in a very fluid situation – something as serious and risky as a peace negotiation cannot be made up as one goes along. Without a plan and a timeline in place, consideration of the thorniest, most difficult issues – and there are many – gets delayed and put off; delay and foot-dragging in turn deteriorate confidence in the process and sharpen divisions on both sides about how, and whether, to proceed.

In the case of the paramilitary talks, we can even discern a troubling pattern resulting from over-improvisation. The talks have shown a tendency to flounder for months with no breakthrough, until a crisis takes them to a potential breaking point. At that point, an ultimatum is issued and both sides take a small, very public step (such as the end-of-year demobilizations) that is intended to show "progress." Then the talks go back to their previous floundering.

Compounding the sense that the talks are occurring in an atmosphere of improvisation and disorganization – that they are going around in circles – is the high level of secrecy in which they are taking place. Without transparency, confidence in the talks is damaged – especially when the talks are taking place between a government and an armed group that happens to be pro-government.

The AUC's many victims and other stakeholders have been denied opportunities for meaningful input into the negotiations, adding to a sense of outrage that was perhaps most palpable when three AUC leaders addressed Colombia's Congress in July (an episode that Ambassador Wood called a "scandal"). Suspicions of foul play are magnified when disturbing pieces of news do penetrate the barrier of secrecy, such as the recordings of negotiation sessions leaked to the media by Salvatore Mancuso in September. In the tapes, government peace negotiator Restrepo assures Mancuso that he is trying to keep reports of paramilitaries murdering civilians in the Ralito demilitarized zone out of the media. Restrepo also tells the paramilitaries that they have no need to fear extradition to the United States or to the International Criminal Court.¹⁴

Colombia has improvised its peace processes before, and it has nearly always gone badly. Without a strategy and at least a rough timetable to keep the talks on track and to verify gains, the Colombian government is forced to depend heavily on the paramilitaries' goodwill. "Trust but don't verify" is a poor guideline.

4. **A plan must be in place to fill the security vacuums that real demobilizations would leave behind.** As demobilizations get underway, many residents of paramilitary-dominated areas are terrified by what might happen next. As Human Rights Ombudsman Volmar Pérez puts it, "people are afraid that the guerrillas will come and destroy them because they had to live among the paramilitaries."

One such area is the Catatumbo region of Norte de Santander department, a coca-growing zone

¹³ See <http://eltiempo.terra.com.co/opinion/reda/2004-11-22/index.html>.

¹⁴ See <http://semana2.terra.com.co/openncms/openncms/Semana/articulo.html?id=82024>.

near the Venezuelan border. Sometime in December, the AUC's Catatumbo Bloc is to disband its 1,400 members – the largest single bloc expected to dissolve in 2004. The guerrillas' return to this zone is a very real possibility: according to *El Tiempo*, 500 FARC and ELN fighters continue to dominate the sparsely populated left bank of the Catatumbo river, while the paramilitaries reign on the right bank, where most of the population lives.¹⁵ We have seen a preview of what might happen if the guerrillas cross the river for good: in June, the FARC massacred 34 coca-pickers in the paramilitary-dominated La Gabarra district of Tibú municipality.

The Colombian press has noted a slow but steady exodus from Catatumbo since word of the demobilization began to spread. Anticipating a rise in violence and a disruption to the coca economy, locals have been leaving by the busload. A *campesino* who has lived in the zone for twenty years told Cali's *El País* that his bags are packed "because we are going to be unprotected and abandoned. What people are saying is that if the 'paras' leave, the guerrillas will enter, and we don't know how they will act nor what their intentions will be, because they will consider those of us who live here to be collaborators."¹⁶

A greater military and police presence, he added, won't make much difference. "It's not enough, because they're not going to put a policeman or soldier on every corner. And if they do, what will happen to the people who live in the countryside? Before, when the guerrillas ran things and the security forces were also present, the guerrillas killed at any time of day or night, anywhere they pleased, and we don't want to see that situation repeated."

The Colombian government has announced its intention to fill the security vacuum by deploying new troops and police to the zones the AUC claims to be vacating. In the short term, the Defense Ministry expects to send personnel from elite mobile brigades, which may require a drawdown from other anti-guerrilla operations elsewhere in the country, particularly the U.S.-supported "Plan Patriota." By next year, the armed forces are promising an additional 4,000 troops in the demobilization zones, a gap that they expect to fill in part by "redirecting" some peasant soldiers – participants in a program originally designed to station soldiers in their hometowns.¹⁷

"The important thing is that they come to stay. Our hope is that we can finally have a state here," a pharmacist in El Tarra, Catatumbo told *El Tiempo*. Unfortunately, it is far from clear that the Colombian military will be able to maintain a long-term presence of that size in these zones, when the conflict continues to be fought on so many other battlegrounds throughout the country.

"At its innermost circles, the government seems to fear the same thing," writes security analyst Alfredo Rangel, who directs the Bogotá-based Security and Democracy Foundation. "It knows that it is still unable to stop the guerrillas' return to many places where paramilitary groups will be demobilized. ... Where will it find these additional troops? Clearly, by pulling them out of Plan Patriota in the south, because the government does not have enough military power to

¹⁵ See http://eltiempo.terra.com.co/coar/NEGOCIACION/negociacion/ARTICULO-WEB- NOTA_INTERIOR-1888333.html.

¹⁶ See <http://elpais-cali.terra.com.co/historico/nov152004/NAL/A315N1.html>.

¹⁷ See <http://www.presidencia.gov.co/sne/2004/noviembre/04/04042004.htm>.

demobilize the paramilitaries and to try to defeat the guerrillas at the same time.”¹⁸

Of course, truly filling the vacuum and securing these zones would require more than just military force; Human Rights Ombudsman Volmar Pérez has proposed a more integral “humanitarian cordon” in the demobilization zones, with agencies from the civilian government, governors and mayors, the international community and civil society carrying out an ambitious strategy “to rebuild the social fabric and allow the population to live in peace.”¹⁹ It is doubtful, though, that the Colombian government has the will or the money to see this idea through.

If the demobilizations embolden the guerrillas and the Colombian government cannot mount an effective deterrent, what will happen? The likely outcomes are grim.

The first possibility is a guerrilla takeover of key paramilitary demobilization zones. A FARC resurgence would not only create a humanitarian emergency, it could deal a death blow to the Colombian government’s talks with the AUC. If their gesture is met with a guerrilla scorched-earth campaign, it is hard to imagine the paramilitaries agreeing to demobilize any more of their blocs.

In fact, the guerrilla-takeover scenario is rather unlikely. The paramilitaries are near their peak military strength and well positioned at the negotiating table; for them to cede control over strategic zones at this point defies all logic. They probably have something else in mind.

In the short term, AUC control may be preserved through duplication of blocs. Most, if not all, of the paramilitary blocs slated to turn in their weapons between now and January 1 operate alongside other AUC groups in the same regions. The Catatumbo bloc, for instance, is one patch in a larger quilt of AUC blocs in the immediate area; strong paramilitary presences will continue to the west in southern Cesar department, and to the east around the strategic city of Cúcuta.

If the AUC is truly to demobilize, however, these parallel blocs will have to disappear eventually. To solidify control over territories after “demobilizing,” the paramilitaries would have to pursue a less formal solution.

While it may no longer operate within a “paramilitary” structure of uniformed fighters living with military discipline in encampments, **a post-negotiation AUC may still be a lethal force with broad dominion over territory and control over much of the drug economy.** In some areas, it could exert control as a network of shadowy death squads; in others, it could be a private system of vigilantes meting out private “justice”; in still others, it may be nothing more than a mafia controlling illicit behavior. Or it could be all three at the same time.

If this reconfigured paramilitary control is to be the result, the current negotiations are clearly not worth the effort. Before supporting DDR, then, the United States must ask tough questions about the Colombian government’s plans to keep the guerrillas or re-configured paramilitaries from

¹⁸ See http://eltiempo.terra.com.co/opinion/colopi_new/alfredorangelsuarez/ARTICULO-WEB-NOTA_INTERIOR-1816185.html.

¹⁹ See http://eltiempo.terra.com.co/coar/NEGOCIACION/negociacion/ARTICULO-WEB-NOTA_INTERIOR-1903841.html.

filling the vacuum:

- What troop strength is needed to secure the population of the demobilization zones? Will this presence guarantee security in rural areas, or just town centers? For how long must that troop strength be maintained? Do the Colombian military and police have the manpower to maintain that sort of presence for that long a period, or is it likely that they will be called away early for more urgent missions?
- When, and to what extent, will civilian government institutions, especially the judiciary, enter the zone – and is the ombudsman’s proposal for a “humanitarian cordon” being taken seriously? How much would all of this – the military and civilian components – cost? Does the Colombian government’s budget anticipate covering that cost? Where will the money come from?
- What is being done about parallel paramilitary blocs in the same zones? Will the OAS or some other credible mechanism be in place to verify that (a) former paramilitary leaders are not carrying out illegal activities in the zones they previously dominated, and (b) the security forces are working diligently to dismantle any illegal networks involving former AUC leaders?

Until the Colombian government can offer satisfactory answers to these questions – and clear responses have not been forthcoming – the “security vacuum” issue will continue to be an urgent concern.

5. **Colombia's legislature must approve a coherent legal framework granting a measure of justice, full access to truth, seizure of stolen assets, reparations, and dismantling of paramilitary structures.** A very uncomfortable fact underlies the paramilitary talks: any agreement that results is going to include some impunity for mass murderers. By offering to negotiate with any illegal armed group, a government implicitly guarantees that it will not submit its leaders or members to the ordinary justice system, and offers a degree of impunity to induce them to lay down their arms. As a result, paramilitaries who committed crimes against humanity will almost definitely be out of jail and living in polite society within ten years of an agreement's signing.

Some supporters of the Uribe government's peace talks argue that peace will only be attainable by granting lenient terms – if not a blanket amnesty – to its leaders. This belief underlay its original "alternative punishments" bill, introduced in Colombia's congress in August 2003. This legislation, which went nowhere, would have required only light and symbolic penalties, along with financial reparations, for serious crimes. (It is worth noting that many of the legislators who killed the bill in fact support the idea of negotiating with paramilitaries. They were concerned, however, that any law that emerges will set a precedent: the same weak standards could later be applied to guerrilla leaders.)

On the other end of the debate is much of Colombia's human rights community, which essentially argues "no justice, no peace." They remind us that Colombia has been through many “forgive and forget” peace agreements since the 1950s, which have forced people to live alongside their loved ones’ and leaders’ amnestied killers, or to watch those who stole their land and property simply get away with it. A peace deal that fails to punish the perpetrators and do right by the paramilitaries' victims, they argue, will only prolong a generations-old cycle of revenge, violence and warlordism.

The "no justice, no peace" argument is a strong one. Its main weakness, though, is that it is

inoperable in its purest form. Armed-group leaders do not willingly turn themselves in and go to jail for long periods. They only do so if they face a far worse alternative: military defeat. Yet neither the paramilitaries nor the guerrillas are likely to be defeated militarily anytime soon. To insist on zero impunity, then, is to condemn Colombia – which has a poor record of fighting paramilitaries anyway – to many more years of fighting.

In our view, then, the United States need not insist on zero impunity as a precondition for its support of the paramilitary peace talks. At the same time, the United States must not back a process that grants amnesty too liberally.

Colombians are trying to find a balance between these two extremes. Opposition in the Congress, including from pro-Uribe legislators, has so far torpedoed two "alternative punishments" bills introduced by the Uribe government: the lenient August 2003 version and a somewhat more stringent April 2004 bill. Neither even came to a vote.

A new bill that may come closer to an acceptable "midpoint" is nearing introduction in Colombia's congress. This time, the legislation is coming from opponents of the earlier bills. Former defense minister and pro-Uribe Senator Rafael Pardo has joined with a diverse group of legislators (among them Wilson Borja, a former labor leader and leftist congressman who suffered a paramilitary assassination attempt in 2000) on what they call a "Truth, Justice and Reparations" law.

The proposed law, like the Uribe government's April 2004 submission, would grant amnesty to all who are not accused of crimes against humanity. Those who face the more serious charges would be subject to at least five, and probably closer to ten, years in prison, followed by parole.

Reparations to victims would include not just the return of stolen assets but payments, funded largely by fines and asset sales, for pain and suffering, psychological harm, lost opportunities (such as inability to attend school), and "damage to reputation and dignity" (these payments may resemble Chile's recently devised arrangement for torture victims). The government would assume responsibility for payments even if funds supplied by former paramilitaries are not sufficient.

The bill would guarantee victims' "right to the truth" about what happened. While no "truth and reconciliation commission" is contemplated, the bill would require the government to maintain an archive of all cases and guarantee public access.

The proposed legislation would make a more serious effort to dismantle paramilitary structures. Upon demobilizing, all paramilitaries would have to provide a thorough accounting of their background in the organization, their stolen land and other assets, and their understanding of the group's command and financial structures. Those found to be hiding information would lose their benefits and be transferred to the criminal justice system.

Though a dramatically better measure than what came before, the bill could use some improvements. One of the most glaring omissions is the failure to hold accountable those who participated in paramilitarism and aided serious crimes, but need not demobilize – especially the

military officers who facilitated the groups' growth and activities, and the landowners, drug dealers and other wealthy individuals who contributed funds. Nowhere does the bill even contemplate a public mention of their names, much less punishment or reparations payments.

Meanwhile, the commitment to have the government pay reparations could become a huge "unfunded mandate" requiring the state to cough up millions of dollars each year from a budget that is already deeply in deficit. At the same time – as shown by the decade-old effort to untangle the true holdings of Medellín and Cali cartel leaders – it will be very hard to verify that paramilitary members have truly given up all of their stolen assets, dismantled their command structures, and broken up their networks of drug trafficking and death-squad activity. The bill will thus have to provide a long mandate, a big budget, and extensive security protections for employees of the proposed Prosecutor for Truth, Justice and Reparations. Finally, the idea of ten years or less in jail may not satisfy many victims.

So far, though, the legislation's most vocal opponents have been the paramilitaries and, to a lesser extent, the Colombian government. The AUC's muscular Central Bolívar Bloc, in a statement full of veiled threats against Wilson Borja, rejected the bill as "a series of mortal traps set against peace, into which no organization outside the law would allow itself to fall."²⁰

For its part, the Uribe government favors a law covering demobilization on an individual basis, not the collective demobilization foreseen in the Pardo bill. This means that the government does not wish to require those demobilizing to reveal the details of their organization's command and support structures. The government would not require commanders who demobilize to guarantee that their entire blocs demobilize as well. The government also opposes the creation of a separate tribunal to judge crimes, preferring to keep this function under its control in the executive branch. It also opposes the idea of denying the bill's protections to paramilitaries who fail to comply with their commitments.

It is not clear why the government would reject such common-sense provisions. The upshot, however, is that agreement is unlikely before the Colombian Congress ends its session in about a week and a half; legislative debate will have to wait at least until March.

In the meantime, there is no legal framework to deal with the paramilitaries currently demobilizing. They are presently covered by existing law ("Law 782" and "Decree 128") governing individual deserters. Under these provisions, those who have no outstanding arrest warrants for serious crimes are automatically amnestied and enter government "reinsertion" programs. (*Semana* notes that if any rank-and-file paramilitary fighter "committed a crime against humanity but faces no arrest warrant or judicial process, he can simply hide this information and go home."²¹)

Those who do face charges of committing serious crimes will find themselves in a legal limbo. As long as talks continue, they will not go into Colombia's criminal justice system and face life imprisonment, but there is still no law in place to determine what will happen to them. For now, these "unpardonables" must congregate in the Ralito demilitarized zone while they wait for

²⁰ See http://www.bloquecentralbolivar.org/detalle_edt.php?Id=1800.

²¹ See <http://semana.terra.com.co/opencms/opencms/Semana/articulo.html?id=83396>.

Colombia's congress to agree on an "alternative punishments" law.

To merit significant U.S. support, the legal mechanism Colombia chooses should meet the following minimum requirements regarding justice, truth and reparation, some of which the Pardo bill does address.

- *The legal mechanism must seek to dismantle paramilitary structures, not just demobilize individuals.* A peace process is a waste of time if it leaves "former" paramilitaries controlling territory through fear, violence and criminality. Paramilitarism is becoming a significant political and economic force in Colombia, and undoing it will not be easy. The structures of territorial control, and the lucrative linkages to the drug trade, are unlikely to disappear without a concerted, well-funded, and well-protected government effort to eradicate them. This means requiring demobilizing paramilitaries – at risk of losing their benefits – to reveal the nature of their organizations' structures and assets. It also means giving the government the resources and tools it needs to verify that paramilitary activity truly stops.
- *The process must involve victims in the design of an appropriate settlement.* A negotiation between two groups with a history of collusion is extremely suspect if victims and their organizations are denied meaningful opportunities to participate and if their concerns are clearly ignored by the resulting agreement.
- *At a bare minimum, the legal mechanism must require paramilitary human rights abusers to make a public admission of their crimes and to return all of their ill-gotten assets.* Beyond this bare minimum, jail sentences, financial reparations, and prohibitions on holding public office would lend a great deal more credibility to the process. The land issue is of critical importance: the Colombian human rights group CODHES estimates that 4.7 million hectares of agricultural land (11.75 million acres, about the size of Vermont and New Hampshire combined) have been abandoned due to illegal armed-group activity. A peace process that ends up legalizing stolen landholdings would be worse than none at all, as it would virtually guarantee a future explosion of violence.
- *The legal mechanism must not let the paramilitaries' material supporters remain unnamed (or, ideally, unpunished).*
- *The agreement must include a financial plan,* indicating how much money will be available for such costly commitments as reparations, demobilization and verifying the commitment to dismantle paramilitarism. This plan should make clear how much is expected to come from foreign donors.
- *The law should make clear that ex-paramilitaries will not be admitted into the Colombian armed forces while the conflict continues.* As long as fighting against the FARC and ELN persists, "recycling" paramilitaries into the security forces is a recipe for trouble. Demobilized paramilitaries who join the security forces would find themselves carrying out the same mission they performed before: fighting guerrillas (and, perhaps, those whom they feel are guerrilla collaborators). The likelihood of abuses would greatly increase. After years of alleged military-paramilitary collusion, merging the military with former paramilitaries

would severely damage the credibility of the Colombian armed forces, which have been endeavoring to portray themselves as professionalizing and increasingly respectful of human rights.

Conclusion. The factors discussed here – a failing cease-fire, a wave of drug fugitives in the negotiation zone, improvisation in place of strategy, a likely security vacuum, and an unresolved debate over justice and amnesty – add up to a complicated peace process in serious trouble. The United States can help, but not merely by underwriting the talks in their current form. By conditioning its support along the five guidelines described here – conditions that CIP believes to be minimal and reasonable – the United States can do more than just ensure that its money is spent wisely. We can give the Colombian government the leverage it needs to guarantee that a peace agreement with the AUC is lasting, just, and in fact does away with the paramilitary phenomenon in Colombia.

If all five are reasonably met, CIP would support a generous U.S. contribution to paramilitary talks and disarmament, demobilization, and reintegration. If they are not met, we cannot recommend support. The risk is too great that a process that fails to meet these basic conditions will lead to a situation even worse than the status quo.