



United States Department of State

Washington, D.C. 20520

www.state.gov

JUN 19 2006

Dear [REDACTED]

I hereby transmit the Secretary of State's certification pursuant to section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102). The accompanying memorandum of justification is also enclosed.

Following a careful review of all available information, the Secretary has concluded that the criteria for certification described in section 599E(b) are being met by the demobilization and reintegration program undertaken by the Government of Colombia and that U.S. assistance will only be provided in compliance with those conditions.

Please do not hesitate to contact us if we can be of any further assistance in this matter.

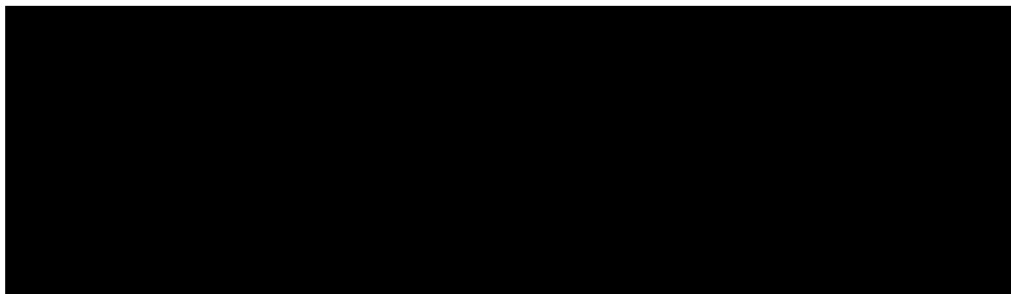
Sincerely,

A handwritten signature in black ink that reads "Jeffrey T. Bergner".

Jeffrey T. Bergner
Assistant Secretary
Legislative Affairs

Enclosures:
As stated.

The Honorable



**MEMORANDUM OF JUSTIFICATION CONCERNING
CONDITIONS FOR ASSISTANCE FOR THE DEMOBILIZATION
AND DISARMAMENT OF FORMER MEMBERS OF
FOREIGN TERRORIST ORGANIZATIONS IN COLOMBIA**

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (P.L. 109-102) establishes certain conditions under which funds appropriated by that Act may be made available for assistance for the demobilization and disarmament of former members of foreign terrorist organizations (FTOs) in Colombia, specifically of the United Self-Defense Forces of Colombia (AUC), the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN).

In particular, Section 599E(a) allows that up to \$20,000,000 of funds may be made available in fiscal year 2006 if the Secretary of State makes a certification described in Section 599E(b) to the appropriate congressional committees prior to the initial obligation of these funds for the fiscal year involved. Section 599E(b) requires a certification that:

- (1) assistance for the fiscal year will be provided only for individuals who have: (A) verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups; and (B) are meeting all the requirements of the Colombian Demobilization Program, including having disclosed their involvement in past crimes and their knowledge of the FTO's structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared;
- (2) the Government of Colombia is providing full cooperation to the Government of the United States to extradite the leaders and members of the FTOs who have been indicted in the United States for murder, kidnapping, narcotics trafficking, and other violations of United States law;
- (3) the Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations; and
- (4) funds shall not be made available as cash payments to individuals and are available only for activities under the following categories: verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions.

This memorandum provides background and justification to accompany the Secretary of State's certification that the criteria in Section 599E (b) have been met. Each of these conditions is addressed below.

(1) (A) assistance for the fiscal year will be provided only for individuals who have verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups;

The Colombian demobilization program requires that all individuals who demobilize sign a renunciation statement that demonstrates his/her decision to terminate all affiliation or involvement with any illegal armed groups or FTO and return to civilian life. As part of the demobilization process, each individual signs and places his fingerprints on this written pledge that is digitally scanned into a government database and verifies the individual's agreement to renounce and end activities and contacts with all illegal armed groups, to rejoin civilian life and to comply with the requirements of the program. Individuals who do not do so are not eligible for any programs that receive U.S. assistance. Compliance is monitored through the mechanisms described below.

The Ministry of Interior and Justice (MOI/J) implements the Government of Colombia's (GOC) reintegration program through a network of Orientation and Reference Centers (CROs) where the individual is required to register once he/she has relocated to their chosen site for reintegration into civilian life. Over a period of 18 to 24 months, the individual will be required to report periodically to a CRO and participate in program activities in order to receive government-provided social and economic benefits.

If the individual abandons the program, engages in any criminal activity or reinitiates affiliation or involvement with any illegal armed group, he or she loses all program benefits or assistance. Any criminal activity, including affiliation or involvement with any illegal armed group, will also then be subject to prosecution under the Colombian penal code.

The reintegration program monitors every demobilized person in the program through the Tracking, Monitoring, and Evaluation System (TMES). The TMES collects and analyzes data on each individual to:

- (1) determine the degree of reintegration achieved;
- (2) identify those at high risk of abandoning the program and provide them remedial assistance to reduce their chances of dropping out and recidivism;
- (3) assess the effectiveness of the program; and

- (4) inform authorities when individuals abandon the program, do not comply with program requirements or become involved with any criminal activity, including involvement with illegal armed groups.

Additionally, the Organization of American States' Mission to Support the Peace Process in Colombia (OAS/MAPP) observes and verifies the demobilization and reintegration process and evaluates information related to the dismantling of FTOs.

U.S. assistance will expand and strengthen the capacity of the CROs and the TMES by providing administrative and logistical support and technical assistance and will support the OAS/MAPP activities related specifically to verification of the reincorporation process.

These oversight mechanisms are expected to identify individuals who have resumed any affiliation or involvement with FTOs or illegal armed groups. Such individuals will not be eligible for any reintegration programs that receive U.S. assistance.

(1) (B) U.S. assistance will only be provided for individuals who are meeting all the requirements of the Colombian Demobilization Program, including having disclosed their involvement in past crimes and their knowledge of the FTOs structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared;

The Colombian demobilization program is based on the legal framework established for the demobilization, disarmament, and reintegration of illegal armed groups or individuals under Law 782/2002, the more recent Justice and Peace Law (Law 975/2005), and a number of decrees that regulate the implementation of these laws, especially Decree 4760/05 of December 2005. Individuals who do not meet all the requirements of the Colombian demobilization program, including disclosure requirements, will not be eligible for any programs that receive U.S. assistance.

Law 782/2002 establishes the process for demobilization and provides a pardon for those demobilized individuals whose only crime is sedition or rebellion. It also includes a package of social and economic benefits to assist in reintegration into civil society. However, a demobilized person is ineligible for any of these benefits if he or she has a criminal record or is charged with a major crime, including terrorism, drug trafficking, kidnapping, genocide, murder outside of combat, or other serious crimes against a defenseless victim.

Many credit the successful U.S.–Colombia extradition relationship, FTO members' fears of extradition to the U.S. and the unwavering support of extradition by the Uribe government as major factors contributing to the successful demobilization of paramilitary forces.

Despite calls by some FTO members and their supporters to alter Colombian laws to block extradition, President Uribe publicly rejected any such changes when he signed the Justice and Peace Law (Law 975/2005) on July 22, 2005.

The Colombian Supreme Court has approved the extraditions of AUC leaders Salvatore Mancuso and Diego Murillo, a/k/a "Don Berna," but President Uribe, exercising his inherent authority, has suspended their actual extraditions since they continue to participate in the demobilization process.

Although President Uribe has suspended the extradition of two persons who have been engaged in the negotiating process, the United States has repeatedly made clear to Colombian authorities its concern that extradition of persons wanted for violations of U.S. laws should continue. The Justice and Peace law applies equally to members of the three FTOs in Colombia (FARC, ELN, and AUC). It specifically requires that the Colombian Prosecutor General's Office investigate and prosecute FTO members who wish to receive certain legal benefits in exchange for their demobilization, forfeiture of illicit assets, and confessions.

Diego Murillo is presently being held in the high security Itagui prison, for crimes allegedly committed during the negotiation process. Salvatore Mancuso is confined to the Santa Fe de Ralito area, the designated zone for demobilization negotiations, and can only leave it with GOC approval. It is widely expected that both Murillo and Mancuso will be convicted in the prosecution by the Prosecutor General under the Justice and Peace Law. The United States will continue to pursue forcefully their extradition, and that of other FTO members and leaders similarly sought for crimes in the United States, either before they serve any sentences in Colombia or after having done so.

Paramilitary leaders and their supporters continue to argue against extradition. Nonetheless, Colombian's bilateral cooperation in extraditing leaders and members of FTOs, as well as other fugitives for criminal acts, continues overall to be outstanding.

The United States will continue to pursue vigorously extraditions and has made its concerns clear to the Government of Colombia. The United States will work with Colombia to continue the excellent extradition relationship.

(3) The Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structure of Foreign Terrorist Organizations;

The Government of Colombia has a clearly articulated policy and well-structured operational plan for collective demobilization as well as an already successful program that encourages individuals and small groups to desert and reintegrate. The Justice and Peace Law (Law 975/2005) outlines the framework by which the Colombian Government intends to dismantle the organizational structures of FTOs.

Regulations for the Justice and Peace Law, promulgated in December 2005, have clarified how it is to be implemented. A significant development was the provision of additional six-month period for investigation once the Prosecutor General receives the official government list of those seeking processing under Law 975/2005. This provides a critical period for a more extensive background investigation prior to beginning the 60-day investigation of criminal activities identified in the Law 975/2005 deposition or "versión libre" that will be the subject of formal charges and adjudication.

Other important elements of the implementing decree extend the investigative powers of the prosecutors. Specific articles give the prosecutors explicit authority to require a person to complete their Law 975/2005 deposition in as many sessions as needed for a complete investigation and allow the demobilized to expand their statements at any time. This creates a continuing opportunity and obligation on the part of the demobilized to disclose all the information they have.

Moreover, the regulations allow the prosecutors to ask about the illegal activities of other members of the armed group and obligates the individual to disclose his or her illegal assets, as well as information about all the illegal assets of the organization, not just his or her own.

In addition to this legal framework, the GOC has established a programmatic framework for interagency/ministry coordination of the demobilization and reintegration process, including the dismantling of the organizational structure of illegal armed groups. It includes the already described Tracking, Monitoring and Evaluation System (TMES) for assessing the progress of the demobilized as they return to civil society, the network of Orientation and Reference Centers (CROs), a

plan for regional reintegration assistance supported by local governments and private sector, and oversight by the Office of the Inspector General and the Ombudsman.

Another important component of Law 975/2005 expressly imposes an obligation upon the demobilized to provide reparations to victims. The reparations articles of the law regulate the mechanisms and venues for the victims to receive reparations, participate in the presentation of evidence, verify illegal acts, and ensure full disclosure of the truth through establishment of a National Reparations and Reconciliation Commission (NRRC).

U.S. assistance in this area will be used to: a) strengthen interagency/ministry coordination of the programmatic framework through support to the Office of the High Commissioner for Peace, the Ministry of Interior and Justice, and other governmental entities collaborating in the demobilization and reintegration process, b) strengthen the legal framework for stricter implementation of Law 782/2002 and Law 975/2005 through support to the Office of the Prosecutor General (including the National Prosecutorial Unit for Justice and Peace), the Public Defense Office and the Judicial Court system, and c) to strengthen the public, international and citizen oversight of the process through support to the Office of Inspector General, the Ombudsman, the OAS/MAPP and the NRRC.

The OAS Mission to Colombia is verifying all elements of the demobilization and reintegration process, including the dismantling of AUC armed units. The Sixth Quarterly Report of the Secretary General of the OAS to the OAS Permanent Council submitted on March 1, 2006 concludes that the GOC is implementing a workable framework for dismantling the organizational structures of FTOs and that there has been significant progress in the period since his previous report of October 2005.

Although the OAS report describes the regrouping of some of the demobilized into armed criminal groups, the refusal of some members to disband, and the formation of new illegal armed groups, it finds "... the verification of the dismantling of the armed units demobilized to date to be generally positive. The illegal armed units still found in various areas of the country have been dismantled, and most former combatants have returned to their places of origin."

For those paramilitary groups who continue to engage in criminal activity, the Government of Colombia is taking action in arresting these individuals. As of March 2006, the Colombian Government arrested 325 demobilized paramilitary members who continued to engage in criminal activity.

An example of the GOC's determination to dismantle the organizational structures of the FTOs is the expansion of state authority and social services into areas once under the de facto control of the FTOs, thereby beginning to address the root causes which fueled their emergence originally. In addition, the reintegration program is working to reintegrate these former FTO members as productive members of society, with the primary purpose of dismantling the group structure and offering opportunities that will prevent recidivism.

(4) funds are not being made available as cash payments to individuals and are available only for activities under the following categories: verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions.

Without exception, no U.S. Government funds are or will be provided or used for cash payments to individuals. Any U.S. assistance provided for the demobilization and disarmament and subsequent reintegration into civilian life of former members of FTOs in Colombia is given to government entities and non-governmental organizations. Such entities and organizations will provide support for ex-militants in the form of training, equipment, and necessary administrative, logistical, and technical assistance.

U.S. funds are being made available only for verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, and investigations and prosecutions. FY 2006 funds will only be used for those categories of activities.

Following is an illustrative list of activities for each of the categories that will be supported by U.S. Government programs:

Effective vetting, investigation and legal processing of former members of FTOs (including investigation and prosecution):

- Strengthen administrative capacity for investigation and adjudication under the demobilization program legal framework;
- Train prosecutors, investigators and technical staff in areas of interview techniques, asset forfeiture, money laundering, human rights, complex investigations and investigative techniques, development of evidence and charging documents and guilty pleas;
- Provide technical assistance in case management and investigations, unit organization and use of personnel and resources, application of the Justice and Peace Law and other relevant legal statutes;

- Develop a comprehensive database on cases and demobilized members and assets;
- Development of DNA database and enhanced use of existing forensic labs and techniques;
- Support for the implementation of the Tracking, Monitoring and Evaluation system (TMES) and reference centers (CROs);
- Support oversight activities of state entities, Office of the Inspector General and Ombudsman.

Verification:

- Provide support to the OAS Colombia Mission (OAS/MAPP), including covering logistical and administrative costs for central and regional offices.

Recovery of assets for reparation of victims:

- Assist the GOC to develop and manage the Victims' Reparations Fund for collective and individual reparations of victims;
- Support the GOC in developing and managing the victims and assets database for the identification and verification of reparations;
- Provide technical assistance to the GOC in the development of the regulatory and procedural framework and systems for the reparation process;
- Support civil society participation in the reparation process.

Reintegration:

- Support to public/private sector social development, education and vocational training and job placement programs that lead to the social and economic reintegration of the demobilized
- Support the institutional strengthening of the GOC agencies and ministries that support the reintegration program.

Billing Code 4710-29

DEPARTMENT OF STATE

Public Notice XXXX

**DETERMINATION AND CERTIFICATION UNDER SECTION 599E OF
THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS ACT, 2006 (P.L. 109-102)**

Pursuant to the authority vested in me as Secretary of State, including under section 559E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act (FOAA), 2006 (P.L. 109-102), I hereby determine and certify that:

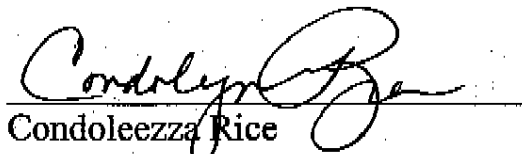
- (1) assistance for the fiscal year will be provided only for individuals who have (A) verifiably renounced and terminated any affiliation or involvement with FTOs or other illegal armed groups and (B) are meeting all the requirements of the Colombian Demobilization Program, including having disclosed their involvement in past crimes and their knowledge of the FTOs structure, financing sources, illegal assets, and the location of kidnapping victims and bodies of the disappeared;
- (2) the Government of Colombia is providing full cooperation to the Government of the United States to extradite the leaders and members of the FTOs who have been indicted in the United States for murder, kidnapping, narcotics trafficking, and other violations of United States law;
- (3) the Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations;

- (4) funds shall not be made available as cash payments to individuals and are available only for activities under the following categories: verification, reintegration (including training and education), vetting, recovery of assets for reparations for victims, investigations, and prosecutions.

This Determination shall be published in the Federal Register and copies shall be transmitted to the appropriate committees of Congress.

JUN 15 2004

Date



Condoleezza Rice
Secretary of State