Executive Summary

Colombia today is crippled by its most serious political, economic, social, and moral crisis in a century, a condition that seriously threatens both Latin America and the national interests of the United States in the region. Of course Colombia is the source of most of the cocaine that floods U.S. streets. More important, it is a major player in the "war on drugs" generally and in U.S. and regional efforts to create and sustain a stable, prosperous and democratic hemisphere. But if Colombia is to be a constructive force in a thriving hemisphere, governments in Bogotá, Washington, D.C., and other countries are going to have to face realities in the region and fundamentally shift their drug-related policies. The stakes are high and the effort must be made, though vested interests everywhere make the prospects of formulating and implementing a successful, integrated strategy less than encouraging.

Today Colombia is debilitated by the residue of its colonial past and a closely related domestic instability that has prevented its government from creating a peaceful and productive nation that is responsive to the interests of all of its citizens. The country's crisis is seen most poignantly in the violence and chaos caused by a thriving illegal drug industry that has become closely linked to the hemisphere's oldest and, not coincidentally, only burgeoning armed insurgency. A fatal weakness in joint U.S.-Colombian strategy today is that U.S. guidelines preclude working to decouple the activities of drug traffickers and armed insurgents. Only by severing the links between organized drug-related crime and organized political violence, however, will the right- and left-wing armed insurgencies have incentives to begin the peace process with the objective of ending the armed struggle.

During the past fifteen years the Colombian government has sought

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This essay is based on academic and field research conducted by both authors between 1994 and 2001 in Colombia and the United States. For more references, see Buscaglia, "Law and Economics of Development" in *The Encyclopedia of Law and Economics* (Cheltenham: Eduard Elgar, 2000).

to launch long-overdue, largely positive reforms intended to give the Colombian people generally more of a say in their lives. These reforms have been unevenly successful, however, owing to the magnitude of the chronic problems and the omnipresent violence and corruption of the country's guerrilla and paramilitary forces and their allies in the drug industry. Together they operate with no significant constraints in more than half of Colombian territory.

Last year Colombian president Andrés Pastrana, working with the United States, drew up a new and presumably all-encompassing response to this crisis: Plan Colombia, aimed at fostering a stable, democratic nation. So far all movement has been dominated by U.S.-financed military aid to fight the drug war. This won't work. The U.S. policy has drawn substantial criticism in Colombia and abroad because either it is inexplicably, but honestly, based on misperceptions or it is patently self-serving in the very short term. Unless Americans become more serious and pragmatic, even a partial solution will elude both countries and the region. In short, all the countries involved must incorporate strategic options that have heretofore been rejected out of hand by most participants and must offer realistic and integrated strategies over the long term.

Pastrana is correct in stating that Colombia's problems are domestic. As he also knows, however, the drug trade and all that goes with it are international problems as well and must be dealt with accordingly, beginning with the recognition of a sober truth voiced several years ago by former U.S. secretary of state George Shultz and others, namely, that globally the war on drugs is now causing more harm than drug abuse itself.

Colombia's crisis, and the crises in varying stages in neighboring countries, cannot be squarely tackled until the enormous financial incentives and thus profits of the illegal drug trade are eliminated. This would require a decriminalization of consumption in the user countries. Historical precedents show that federal and state regulation of drug production, following the same mainstream punitive legal standards

applied to other hazardous substances, accompanied by shifts in public resources toward preventive health and social policies, would substantially reduce the profits from drug trafficking. This reduction in profits would affect everyone from small coca farmers (encouraging them to grow something else) to drug lords and their goons to the money launderers, guerrillas, paramilitaries, and others who feast on the drug industry's rents. This burden of resolving the drug crisis falls most heavily on the United States, for without killing the U.S. black market no viable solution is in sight for other nations. The United States and Colombia must turn their focus away from destroying coca plants in southern Colombia to waging a political and economic war against the strategic alliance between drug traders and guerrillas and against the public sector corruption that they entail.

The necessary nonmilitary focus, at least in the beginning, means that governments from Bogotá to Washington to Madrid must emphasize Colombia's turning itself into a socially viable country. The present Plan Colombia calls for political, legal, and other essential reforms, but paid for mainly by the Colombian government itself, a pledge with little credibility since that government is in worse economic condition than it has been for the past half century and can't afford this expense, due to its economic crisis. The only significant and dependable funding for Plan Colombia today is from the United States, mostly for military equipment and operations aimed at eradicating coca plants and factories.

To conduct basic, nonmilitary reforms will, of course, require a stability that does not exist. A step toward such stability would be a frank admission that, in most Colombian territory, the state and the services it provides are ineffectual or worse. The Colombian state is delegitimized by its historical indifference to outlying regions (notwithstanding the very recent reforms) and its utter inability to provide most (or in some places any) of the services smaller communities need, beginning with law enforcement. In practical terms, post-1991 constitution-driven decentralization has been implemented clumsily, sometimes

fostering even greater government ineffectiveness and higher levels of clientelism and corruption at the local level.

All parties must also acknowledge that the Revolutionary Armed Forces of Colombia (FARC), the country's largest guerrilla group, and the United Self-Defense Forces (AUC), the "paramilitaries," are the only real "growth" organizations in Colombia. In increasing numbers of rural areas only those two organizations have been able to combine a relatively effective tax system (founded on coca operations, extortion, kidnapping, mining, and agriculture) with the imposition of some degree of primitive order through violence by applying their own "revolutionary justice."

A revised Plan Colombia must be directed toward substantive, flexible, and pragmatic peace negotiations. The Bogotá government should strive to entice each insurgent group to turn toward legitimate political participation (and thus power) through local municipal and other elections. Since Bogotá has an increasingly limited role in much of the country, it will have to increase the effectiveness of local government and grassroot initiatives. In this context, the guerrillas and, in some cases, the paramilitaries can be allowed to use their social networks when running for elections. Some of these networks consist largely of rural primitive infrastructure, ranging from roads, bridges, and primary preventive health services to informal alternative dispute resolution mechanisms (i.e., complaint panels and claims offices within the clearance zone).[1] The newly incorporated guerrillas and the communities under their sway must build on that existing infrastructure but shift from drug dealing to serving the needs of the people, which is what the insurgents have said for decades is their goal.

To some this will seem to be a capitulation to the guerrillas. But, despite the dangers, it is not capitulation. Rather, it is simply building on reality, offering the legal opportunity for insurgency commanders to use democratic channels to gain access to political power. Former guerrillas have done this in Guatemala, Honduras, Nicaragua, and even Colombia itself in the past. This would give the supreme commanders

of each insurgent group an incentive to clean their own ranks of uncooperative elements who stand in the way of seeking political office at the ballot box.

Of course some guerrilla leaders may not be inclined to seek this legitimacy at the expense of the profits from drug deals and ransoms. Also, since these are clearly far from the ideal conditions for electoral reform, some who move in the direction of legality may become the targets of terrorists. Therefore this process would have to be backed up by a military threat with U.S./European Union/U.N. support that could be directed against guerrilla, paramilitary or government elements that assassinate or otherwise persist in their links with drug traffickers and organized violence. A critical question is whether the international community is interested enough to back up its cheap, tough words with a real commitment. And whether frustrated Colombians will go along.

There are no guarantees that this approach will work, but the chances are far better than simply continuing or expanding current policies. Early policy statements by President Bush and some of his officials reflect a better grasp of the need to devote more attention to political, social, economic and institutional conditions in Colombia, to see the Colombian problem in a broader regional context and to devote more effort to reducing consumption in the United States. Some of Bush's individual appointments, however, seem too linked to past failed policies, in particular that of John Walters as chief of the White House Office of National Drug Control Policy. By now, it should be clear that the only way to reduce drug production and consumption is by relying less on wide-reaching law enforcement and more on preventive and positive incentive-based measures.