

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Venacio Aguasanta Arias, et al.)	
)	
Plaintiffs,)	
)	Case Number: 1:01CV01908 (RWR)
v.)	
)	Judge: Richard W. Roberts
DynCorp, et al.,)	
)	
Defendants)	

DECLARATION OF RAND BEERS, ASSISTANT SECRETARY OF STATE FOR THE
BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS
REGARDING POTENTIAL IMPACT OF *ARIAS* LITIGATION ON UNITED STATES
NATIONAL SECURITY AND FOREIGN POLICY INTERESTS

I, RAND BEERS, HEREBY DECLARE THE FOLLOWING TO BE TRUE AND CORRECT:

1. I am currently Assistant Secretary of State for the Bureau of International Narcotics and Law Enforcement Affairs ("Bureau" or "INL"). In this capacity, I am responsible for all United States government policies and initiatives in support of international counternarcotics efforts in the Andean region. These efforts are a key element of United States foreign policy objectives in Colombia and the Andean region and are of vital importance to our national security, not only because of the tragic impact of narcotic drugs on the health, safety, and security of the American people, but also because of the funding provided by the Andean narcotics traffickers to international terrorist organizations that threaten U.S. interests and the lives and security of Americans.
2. I have been advised of the pendency of a lawsuit in the United States District Court for the District of Columbia, *Arias v. DynCorp, et al.*, relating to alleged adverse health effects and property damage in Ecuador arising from the Bureau's drug eradication efforts in Colombia's southern departments of Putumayo and Caqueta. I have reviewed the complaint, which contains allegations that DynCorp International's actions on behalf of the United States Government as a contractor for the State Department constitute state-sponsored torture and seeks a judicial order halting future drug eradication efforts in the region.
3. The *Arias* litigation poses a grave risk to U.S. national security and foreign policy objectives.
4. United States counternarcotics policy in Colombia and the Andean Region is the product of a complicated balancing of U.S. national security and foreign policy objectives that

cannot be addressed in any private litigation. This policy has been approved at the highest levels of the government and has received the direct attention of the President, the Secretary of State, and the National Security Council, among others, and has been endorsed by Congress. The decisions reached in implementing this policy are beyond judicial expertise, and any pronouncements by this court in the context of a private litigation could have foreign policy and national security consequences that the court cannot predict and for which the court cannot account.

5. Any disruption through this litigation of the aerial eradication of illicit drug crops in Colombia will undermine national security by depriving the United States of a key weapon in its arsenal for stemming the flow of illicit narcotics into this country and by allowing international terrorist organizations in Colombia to continue to reap huge profits from drug trafficking with which they will target U.S. interests and American lives.

6. Further, the drug eradication operations at issue in this litigation are a linchpin to U.S. foreign policy objectives to foster democratic and stable governments in Colombia and other Andean nations and to further important trading relationships in the region. Likewise, these operations provide the foundation for numerous bilateral and multilateral commitments between and among the United States, seven Andean nations, and other international partners, including Great Britain and Spain.

7. The continued pendency of this litigation also will undermine U.S. foreign policy and national security objectives around the world by sending the message that the United States does not speak with one voice and cannot stand by its international commitments. As recent events have demonstrated, the United States' ability to forge and maintain alliances within the international community is vital to any number of crucial U.S. interests at home and around the world.

8. The continuation of this litigation also threatens breaches in operational security of the aerial eradication operations that would not only jeopardize the success of the drug eradication efforts but would pose a grave risk to the lives of pilots involved in spraying operations over territories controlled by drug traffickers and armed terrorist groups. These illegal armed forces routinely fire upon Americans involved in spraying operations in Colombia, and any information disclosed through this lawsuit regarding when, where or how such flights may be conducted in the future will provide crucial intelligence information that may prove to be fatal.

9. Finally, while I cannot speak to the goals of any of the Ecuadoran plaintiffs who have brought this litigation, it should be noted that the putative class is drawn from a region adjacent to one largely controlled by drug traffickers and international terrorists. The possibility that plaintiffs have been intimidated or co-opted by these hostile forces should not be overlooked.

II. History of Plan Colombia

10. The United States has been providing assistance to Colombia since the early 1970s to help the Colombian National Police and other law enforcement, military and civilian agencies in their efforts to reduce illegal drug production and trafficking activities. The United States and Colombia have worked together in joint aerial eradication efforts since 1978.

11. Colombia and other Andean countries produce virtually all of the world's cocaine, and in recent years have become the major supplier of heroin to the East Coast of the United States. United States assistance to the region to combat drug production and trafficking has been significant, and has achieved some remarkable successes.

12. These successes are most evident in Bolivia and Peru, once the world's two leading coca-producers. In 1995, Peru had 115,300 hectares and Bolivia had 48,600 hectares of coca under cultivation. Five years later, as a result of joint U.S.-home country drug eradication efforts, United States government surveys show 34,200 hectares in Peru and 14,600 hectares in Bolivia, a drop of roughly 70 percent in both countries.

13. Drug traffickers now have moved much of their operations to Colombia's southern departments of Putumayo and Caqueta. Having witnessed the vulnerability of Peruvian and Bolivian coca supply to joint interdiction operations in the late 1990s, the drug traffickers have formed close alliances with both leftist guerrillas and right wing paramilitary organizations in Colombia who have provided protection at a price. The drug syndicates have thus continued to reap enormous profits, which the terrorist organizations "tax" in order to buy arms and war supplies.

14. In response to these developments, the Colombian government, with United States support, initiated Plan Colombia, a \$7.5 billion program to which the United States committed over \$1 billion in assistance. Plan Colombia represents a dramatic expansion in U.S.-Colombia collaborative efforts in combatting narcotics trafficking and is one of the most significant and largest Western Hemisphere foreign policy initiatives in recent years.

15. In addition to providing funding for operations and assistance in Colombia, the United States committed \$180 million dollars for Department of State programs in neighboring countries for drug interdiction and alternative development.

16. Plan Colombia is designed to provide the Colombian National Police with the capacity to apply eradication pressure in more places simultaneously than previously possible. This is to counter what is often referred to in Colombia and within the region as the "balloon effect," that is, when limited drug eradication efforts in one region result in a swelling of narcotics cultivation elsewhere.

17. The United States is supporting Colombia's efforts to achieve peace and stability through a five-part process: First is a push into Southern Colombia; second is support for narcotics interdiction efforts; third is support for the Colombian National Police; fourth is support for development and particularly alternative development programs and approaches; and

fifth is support for justice and other social sector reform. Each part of this process depends either directly or indirectly on the success of the drug eradication efforts.

18. The centerpiece of Plan Colombia is funding for the "Push into Southern Colombia" program, the program directly at issue in the *Arias* litigation. The Push into Southern Colombia is the first phase of a three-phase, six-year, counternarcotics plan of the Colombian security forces and is targeted at attacking the cultivation and production of illegal narcotics in the southern departments of Putumayo and Caqueta. The second two-year phase will focus on the Meta and Guaviare provinces in Eastern Colombia. The third two-year phase will move to the north to Santander and other provinces. Any disruption in this first phase of operations in Southern Colombia will preclude progress in counternarcotics operations in the other regions in Colombia.

19. The aerial eradication component of Plan Colombia commenced on December 19, 2000, in the southern department of Caqueta and moved into neighboring Putumayo on December 22. As of February 5, 2001, data from the on-board monitoring systems of the spray aircraft indicate that about 25,451 hectares of coca had been sprayed with glyphosate herbicide in Putumayo.

20. During these spraying operations in Caqueta and Putumayo, eight spray planes and/or escort helicopters were hit by hostile ground fire in six separate incidents. In total, during 1999 and 2000, over 100 spray planes and/or escort helicopters were hit by hostile ground fire, resulting in three fatalities.

21. In recognition of the hostile conditions created by the leftist guerilla and right-wing paramilitary groups in the region, the United States, through the Bureau and the Department of Defense, is also providing military equipment, logistical support, and training to the Colombian Army. The United States has trained three counternarcotics brigades, has furnished the Colombian Army with UH-1Ns (Huey), and UH-60Ls (Blackhawks), and is providing on-the-ground support for the maintenance and upkeep of this military hardware. It will soon do the same with additional UH-1H II (Huey II) helicopters. All of these helicopters provide operational security for the drug eradication efforts.

22. In moving forward with the aerial eradication component of Plan Colombia, the United States government has not been unmindful of potential concerns about health or environmental effects of herbicide spraying. In January 2001, consistent with a congressional reporting requirement, the State Department submitted the President's report to Congress on the safety of the herbicide spray being used in the drug spraying operations in Putumayo and Caqueta. The State Department's report was reviewed and approved by the Weed Science Lab of the U.S. Department of Agriculture, with the office of Pesticide Programs of the EPA, and with the Narcotics Affairs Section of the U.S. Embassy in Bogota.

23. The State Department reported to Congress that there are no grounds to suggest concern for human health or the environment from the herbicide spray. The State Department also reported that switching to less effective chemicals for narcotics eradication would risk undermining the eradication effort and increasing coca cultivation, a move that would inevitably

cause greater harm and environmental damage to Colombia given the clear adverse health and environmental impact that coca cultivation has had in that country.

24. Since 1991, the State Department has contracted with DynCorp or various subsidiaries (currently DynCorp International) for support services in the United States counternarcotics aviation program in the Andean region. Pursuant to a contract awarded on January 30, 1998 ("the Contract"), DynCorp International currently provides essential logistical support to the Bureau's counternarcotics activities in Colombia in connection with three primary missions: (1) illicit drug crop eradication, (2) training of host country personnel, and (3) interdiction of narcotics processing laboratories and narcotics transportation.¹

25. As directed by the Bureau, DynCorp International works directly with the United States military, the Anti-Narcotics Directorate of the Colombian National Police, and the counter-drug brigade of the Colombian Army. DynCorp International also works with security forces in neighboring countries, including the Bolivian Air Force Red Devil Task Force, the Peruvian National Police Air Wing, and, on occasion, police and military units in Ecuador, Venezuela, Honduras, Belize and Panama.

26. DynCorp International's activities under the Contract are taken pursuant to and in compliance with the Bureau's precise specifications. In particular, all drug spraying operations conducted in the Andean region by DynCorp International or with DynCorp International's support are (1) carried out pursuant to detailed flight plans and operational requirements approved by both the Government of Colombia and representatives of the Bureau and (2) use a herbicide selected, approved, and supplied to DynCorp International by the Bureau. DynCorp International's activities are closely monitored by the Bureau, including a formal Award Fee process which has generally rated DynCorp International's performance as excellent.

27. DynCorp International's contractual services for the State Department involve highly sensitive and classified information, and DynCorp International is prohibited from disclosing any information regarding its activities without prior express State Department approval.

28. As set forth more fully herein, DynCorp International's activities in support of the Bureau's counternarcotics operations in the Andean Region are (1) vital to U.S. national security interests in stemming the flow of illicit narcotics into this country and in depriving terrorist organizations of financing from narcotics trafficking in Colombia, and (2) an integral part of U.S. foreign policy objectives and diplomatic relations with Colombia and other Andean region nations.

¹ The contract was initially held by DynCorp Aerospace Technology, but was recently transferred to its affiliate, DynCorp International, LLC.

IV. The Importance of the Drug Eradication Efforts to the War on Drugs

29. The tragic impact of illicit drugs in the United States has been well documented and the war against drugs is of vital importance to the national security. It is estimated that illicit drugs cost our society 52,000 lives and \$110 billion a year.

30. The United States is fighting the war against drugs on numerous fronts, with efforts taken at home to reduce the demand for drugs through increased law enforcement and criminal sanctions, education, and drug treatment programs, and with efforts taken at home and abroad to stem the supply of drugs making its way into our homes, schools, and communities.

31. Colombia is the world's largest producer of cocaine. From 1995 to 2000, in part due to spillover effects from successful counternarcotics efforts in Bolivia and Peru, cocaine production in Colombia increased by almost 270 percent. Currently, seventy four percent of the world's coca is cultivated in Colombia. In addition, the U.S. Drug Enforcement Administration estimates that up to 75 percent of the heroin consumed on the East Coast of the United States comes from Colombia.

32. United States support for counternarcotics actions in Colombia is designed to reduce illicit coca production by 20 percent (base year 1999) by the end of 2002 and 40 percent by the end of 2007, and to thus cut the supply of drugs into this country. To achieve this goal, United States policy is designed to attack drug supply at critical points along a five-point grower-to-user chain linking the grower in the source country to the user in the United States. In the case of cocaine or heroin, the chain begins with the growers cultivating coca or opium poppies and ends with the cocaine or heroin user in a U.S. town or city. In between, are the processing (drug refining), transit (shipping), and wholesale distribution links.

33. The United States international counternarcotics programs, for which DynCorp International's services have been retained, target the first three links of the grower-to-user chain: cultivation, processing, and transit. The closer to the source we can attack, the greater our chance of halting drug flows altogether. When source crops are destroyed or left unharvested, no drug can enter the system. It is the equivalent of removing a malignant tumor before it can metastasize. Crop control is the most cost-effective means of cutting supply. In an ideal world, with no drug crops to harvest, no drugs could enter the distribution chain and there would be no need for costly enforcement and interdiction operations.

34. The impact of crop eradication can be dramatic. For example, U.S. government studies indicate that in Bolivia and Peru every 200 hectares of coca taken out of production deprives the drug trade on average of a metric ton of refined cocaine. By this measure, the 13,853 hectares taken out of production in Bolivia and Peru in the year 2000 are the equivalent of keeping approximately 69 metric tons of cocaine from entering the system, with a street value of \$70 billion. To put this sum in perspective, for FY 2001, the United States government's budget for international drug control operations was \$18.8 billion dollars.

35. The executive and legislative branches have repeatedly authorized aerial narcotics eradication as a key element in U.S. counternarcotics policy, because it is the most effective crop

control alternative. If spray planes had unobstructed access to the principal coca plantations, they could destroy a large percentage of the coca crop in a matter of months. With the shift of the bulk of coca cultivation into the terrorist-controlled zone in southwestern Colombia, these aircraft face a more difficult situation. Although the concentration of coca cultivation in a geographically confined area gives the planes a better target, it also exposes them to a level of hostile gunfire for which they were not designed. However, spray teams can more quickly and easily adjust their operations to mitigate potential violence in the face of a likely confrontation with hostile growers and armed terrorists than can eradication teams on the ground.

36. Pursuant to precise and highly confidential specifications supplied by the Bureau, DynCorp International has been working with the Colombian National Police and the Colombian Army to enhance the security of spraying operations in the face of the armed threat posed by the Colombian terrorist groups on the ground. DynCorp International's activities are of crucial importance to U.S. success in its international counternarcotics program and to the reduction in supply that is essential to the overall success of the war against drugs at home.

V. The Importance of the Drug Eradication Efforts to the War Against Terrorism

37. The terrorist attacks of September 11, 2001, have brought into stark focus the crucial importance of depriving international terrorist organizations of the financing they require to stage attacks on U.S. citizens at home and abroad. As United States Ambassador to Colombia, Anne Patterson, recently explained with respect to U.S. policy in the Andean region, Plan Colombia continues to be the most effective anti-terrorist strategy we could design.

38. On October 5, 2001, Secretary of State Powell designated twenty-eight organizations as Foreign Terrorist Organizations. Three of these Foreign Terrorist Organizations are based in Colombia: the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC). Each of these three terrorist groups is financed in large part by the illicit narcotics industry in Colombia.²

39. The FARC, ELN, and AUC are dominant players in the drug trade and control an area of Colombia the size of Texas, which consists of 40 percent of Colombian territory to the east and south of the Andes Mountains. These terrorist organizations in Colombia are involved in all aspects of the drug trade in zones under their control. They grow coca and opium poppy themselves, set production quotas for other growers, tax production, provide seed and supplies, establish themselves as exclusive coca-producing agents (with severe penalties for selling to competitors) and control a significant amount of production, which they market to international drug cartels.

40. The United States government has estimated that FARC and ELN have received as much as \$600 million in drug profits. AUC leader Carlos Castaño in 2000 claimed 70 percent of the AUC's operational costs were financed with drug-related earnings.

² In order to be designated as an Foreign Terrorist Organization, an organization (1) must be foreign, (2) must engage in terrorist activities as defined by statute, and (3) the organization's activities must threaten the security of U.S. nationals or the national security (national defense, foreign relations, or the economic interests) of the United States. See 8 U.S.C. § 1189 (1999).

41. The FARC is the most dangerous international terrorist group based in this hemisphere. The FARC was established in 1964 as the military wing of the Colombian Communist Party and is Colombia's oldest, largest and most capable and best-equipped Marxist insurgency group.
42. The FARC's terrorist activities include bombings, murder, kidnapping, extortion, hijacking, as well as guerilla and conventional military action against Colombian political, military, and economic targets. The FARC have murdered 13 Americans since 1980 and kidnapped over a hundred more. In March 1999, the FARC executed three U.S. Indian rights activists on Venezuelan territory after it kidnapped them in Colombia. In October 2000, the Colombian police rescued a five-year-old U.S. citizen who had been held for six months by individuals connected with the FARC.
43. The FARC welcomed the September 11, 2001, attacks on the United States. Afterwards, Jorge Briceño, known as Mono Jojoy, a FARC commander, was reported to have ordered his group to "combat" the U.S. "until we get to their own territory." Another FARC commander, Manuel Marulanda has threatened to hit American targets in response to U.S. support of the drug war. It is believed that FARC terrorists have received training at Al Qaeda terrorist camps in Afghanistan. In recent months, there also has been evidence of an apparent relationship between the FARC and the Provisional Irish Republican Army ("IRA") and possibly the Basque separatist group ETA as well. In September 2000, Colombian police arrested three members of the IRA who are believed to have been providing explosives training to FARC terrorists.
44. In a recent hearing before the Senate Foreign Relations Committee, Secretary of State Powell grouped FARC with al Qaeda and the IRA as one of the three terrorist organizations worldwide against whom it would not be difficult to sustain an international alliance.
45. The ELN Marxist insurgency group was formed in 1965 and forced Colombian officials to the negotiating table in 1999 through a campaign of mass kidnappings -- each involving at least one U.S. citizen. The ELN's terrorist activities include kidnapping, bombing, extortion and guerilla war. Like the FARC, the ELN often targets foreign employees of large corporations, especially in the petroleum industry, frequently assaults energy infrastructure, and has inflicted major damage on pipelines and the electric distribution network.
46. The AUC is an umbrella organization formed in April 1997, to consolidate most local and regional right-wing paramilitary groups. AUC operations vary from assassinating suspected insurgent supporters to engaging guerilla combat units. Colombian National Police reported the AUC conducted 804 assassinations, 203 kidnappings, and 75 massacres with 507 victims during the first ten months of the year 2000.
47. Judging by the public protestations of the FARC, ELN, and AUC against the U.S.-Colombia drug spraying operations -- not to mention the artillery and gunfire directed by those groups at the spray planes and escort helicopters -- it is clear that the drug eradication

efforts are having a direct and immediate impact on the funding of those terrorist organizations. Any impairment of those efforts as a result of the *Arias* litigation would be rightly viewed as a victory for the terrorists, and would further embolden the Colombian terrorists to expand their partnership with narcotics traffickers.

VI. The Importance of the Drug Eradication Efforts to United States Foreign Policy and Diplomatic Relations with Colombia

48. The drug trade poses a real and tangible threat to democracy and security in Colombia, and the defeat of narco-trafficking in Colombia is the linchpin to United States-Colombia diplomatic relations and a key foreign policy objective of the United States.

49. Colombia is one of the United States' most important trading partners in the Americas, with \$4.5 billion in direct U.S. investments in sectors other than the petroleum sector. Colombia is the United States' eighth largest supplier of crude oil, with more than 330,000 barrels per day. Colombia and its neighbors Venezuela and Ecuador -- both of which function as drug transit routes out of Colombia -- together supply 20 percent of U.S. oil imports.

50. The continued drug financing of both leftist guerillas and right-wing paramilitary groups in Colombia has resulted in a breakdown of the most fundamental aspects of Colombian society. Colombian human rights situation is poor, and the government has little or no presence in large sections of the country that are *de facto* controlled by drug traffickers and the illegal armed forces and terrorist groups on their payroll.

51. The influx of drug money into Colombia has significantly weakened and, in many instances, corrupted many of the public institutions in Colombia, including the government, the judiciary, the police and the military. Human rights activists, members of Congress, journalists, judges, investigators, prosecutors, labor leaders and other private citizens are all subject to assassination, kidnapping, and threats.

52. The continued military unrest in Colombia has resulted in high unemployment, limited investment opportunities, and as many as a million internally displaced persons.

53. The prospects for democracy, peace and stability in Colombia are inextricably linked to the success of Plan Colombia and the reduction of narcotics cultivation, processing, and trafficking in that country. Colombia and the United States have dedicated billions of dollars towards this goal and our joint efforts under Plan Colombia are still in the early stages. Maintaining the momentum in this program is central to U.S. foreign policy objectives and provides the framework for continued diplomatic relations between our two countries.

VII. The Importance of the Drug Eradication Efforts to the Entire Andean Region

54. The success of United States foreign policy efforts in Colombia and the defeat of drug traffickers and their terrorist supporters will also have a significant impact on the prospects of democracy, peace and security in the other countries in the Andean region.

55. It is because of this interrelationship that United States foreign policy is focused broadly on the Andean region as a whole. Any effort to address the problems of Colombia in a vacuum without consideration to the inevitable spillover effects in other countries in the region is doomed to failure.

56. All of Colombia's neighbors are affected to one degree or another by the drug-financed violence in Colombia. The FARC and ELN have crossed international borders for years and have periodically engaged in kidnapping, extortion, and illegal drug and arms trafficking in neighboring countries. The increasingly strong AUC has also begun to operate across international borders, raising the possibility of armed conflict spilling over into neighboring countries.

57. While the armed conflict in Colombia has thus far generated relatively few refugees in neighboring countries, the large numbers of internally displaced persons in Colombia demonstrate the clear potential for a significant refugee crisis if violence in Colombia continues.

58. The threat to regional stability is acute: Venezuela, Peru, and Ecuador all have amassed troops on their borders with Colombia to protect against narcotics traffickers and terrorist groups. Panama, which has no army, has no defense against intrusions from these armed forces.

59. Ecuador is the most exposed neighbor in the region because it is situated adjacent to southern Colombian areas that are guerilla strongholds and heavy drug producing areas. Fighters with Colombian paramilitary organizations have been arrested for running extortion rings in Ecuadoran border regions. There are reports that Colombians are buying ranches and farms in the Ecuadoran border region, possibly for drug cultivation, and Ecuadoran officials have uncovered and destroyed several small cocaine processing labs in the area. The FARC also has been accused of kidnapping people in Ecuador, although the FARC denies the allegations.

60. In Peru, officials have expressed concern about spillover effects of illicit drug activities from Colombia that threaten to reverse the remarkable successes in reducing coca production in Peru over the past six years. Peruvian officials have denounced Colombian plantings of coca and poppy in Peru and international trafficking of arms through Peru to FARC guerrillas in Colombia. Bolivian officials have likewise expressed concern about spillover effects reversing the successes in counternarcotics operations in that country.

61. Venezuela, Panama, and Brazil, while not major illicit drug producing countries, have also served as transit and transshipment points for illicit drugs coming out of Colombia and are directly impacted by counternarcotics operations in Colombia.

* * * *

62. The *Arias* litigation poses grave risks to U.S. national security interests, foreign policy objectives and diplomatic relations in the Andean Region. The *Arias* plaintiffs challenge an aerial drug eradication program that has been repeatedly authorized by the executive and legislative branches after extensive deliberation as a key element in U.S. counternarcotics

strategy. Any disruption of this program would cripple United States efforts to stem the flow of narcotics into this country, provide a financial boon to international terrorist organizations that have targeted U.S. interests, and significantly undermine the prospects of strong and stable relations between the United States and Colombia and other Andean nations. The stakes are high.

Under penalty of perjury, and pursuant to Section 1746 of Title 28, United States Code, I certify and declare that the foregoing statements are true and correct.

Executed this 27 day of November 2001, at Washington, District of Columbia



RAND BEERS
ASSISTANT SECRETARY OF STATE
FOR THE BUREAU OF INTERNATIONAL
NARCOTICS AND LAW ENFORCEMENT AFFAIRS