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Notification of Section 1021 Support Pursuant to Section 1011 (b) of the NDAA for FY 2014 (P.L. 113-66)

(U) This notification is provided pursuant to subsection (b) of section 1011 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2014 (P.L. 113-66), which provides that *“not later than 15 days before providing assistance under section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (as amended by subsection(a)) using funds available for fiscal year 2014, the Secretary of Defense shall submit to the congressional defense committees a notice setting forth the assistance to be provided, including the types of such assistance, the budget for such assistance, and the anticipated completion date and duration of the provision of such assistance.”* This notification will serve to notify Congress of the Department’s intent to obligate funds pursuant to section 1021 for FY 2014, including funds provided under the Continuing Appropriations Resolution and any subsequent FY 2014 enacted appropriations. This notification covers funding provided through the Drug Interdiction and Counterdrug Activities, Defense, appropriation only. This appropriation comprises the bulk of Title 10 support provided in support of Colombia’s unified counternarcotics (CN)/counterterrorism (CT) campaign.

(U) Section 1021 Background

(U) The transformation of Colombia’s security situation from the late 1990s to today is nothing short of remarkable. In 1999, Colombia faced a variety of seemingly insurmountable challenges – a booming narcotics industry that was providing more resources than ever for longstanding left-wing insurgencies; the rise of right-wing paramilitary forces that also became heavily involved in the drug trade; a lack of state control over huge swaths of Colombian territory; a significant lack of public confidence in the Colombian Government to address these threats; a stubborn economic recession; and the departure of hundreds of thousands of Colombians fleeing the growing violence, kidnapping, extortion, and corruption that had become rampant. By the late 1990s, Colombia had become the world’s largest producer of coca leaf, supplying approximately 80% of the world’s cocaine and 90% of the cocaine consumed in the United States. Colombia was “decertified” in 1996-1997, meaning that it was ineligible to receive U.S. assistance because it was not fully cooperating with international counternarcotics efforts.

(U) Although Colombia continues to face a variety of difficult challenges, Colombia has made extraordinary progress in reducing levels of violence, improving its record of human rights abuses, improving security for vulnerable populations, extending state authority throughout Colombia, achieving economic growth, providing basic social services for its citizens, demobilizing illegal armed groups, and taking positive steps to advance the peace process with the Revolutionary Armed Forces of Colombia (FARC). Underpinning all of these successes was the transformational security provided by the Colombian military and national police through Plan Colombia and subsequent efforts to strengthen the security partnership between Colombia and the United States. The full credit for the success of Plan Colombia rests with the Colombian people, who made the commitment to bring about peace and security in their country, but the importance of sustained U.S. support cannot be overstated. The focus of DoD’s support has been to enhance the effectiveness, capability, and professionalism of the Colombian armed forces.

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U.S. interagency support for Colombia must be considered among the most successful U.S. foreign assistance programs in the post-Cold War era.

(U) Integral to the success of Plan Colombia was the expansion of authorities for U.S. foreign assistance and military cooperation provided through the Foreign Assistance Act, and Congress has also noted Colombia's success and the importance of the authority provided by section 1021 in the Conference Report accompanying the FY 2014 NDAA:

(U) We note that the Government of Colombia has made and continues to make progress combating narcotics trafficking and designated foreign terrorist organizations. This type of flexible authority remains required to assist the government of Colombia consolidate its hard-fought gains.

(U) U.S. capacity building for Colombian security forces has been an integral component of a comprehensive effort to enhance security, promote social and economic justice, and strengthen the rule of law, but none of these successes would be possible without first establishing a basic security environment that allows for the development of Colombia's licit economy, international support for alternative development, and protection for vulnerable populations affected by Colombia's 50-year-old civil war.

(U) Although the United States had significantly expanded its support for Colombia to approximately \$155 million in 1998, U.S. support to Plan Colombia officially began when the Congress, through broad bipartisan consensus, approved approximately \$1.3 billion in mostly counternarcotics support for Colombia and the Andean Region through the FY 2001 Emergency Supplemental Appropriations Act, enacted in June 2000. In the early years of U.S. support to Plan Colombia, one of the challenges faced by U.S. military and civilian personnel in Colombia was the necessity of providing assistance through various appropriations, each with its intended purpose. For instance, helicopters or other U.S.-provided support could only be used for the purpose for which the funds with which they were purchased were appropriated. Therefore, certain assets could be used for counternarcotics purposes, while other assets could be used for broader military support, including counter-insurgency operations.

(U) One of the most prominent examples of this inefficiency can be seen in the employment of U.S.-provided helicopters through Foreign Assistance Act funding. The enhancement of Colombia's air-mobile capability has been a critically important component of Plan Colombia, given Colombia's mountainous terrain and the remote areas in which illegal armed groups operate. Because Plan Colombia-provided helicopters were limited to counternarcotics purposes only, they could not be used for broader counter-insurgency operations of the Colombian government, even though at the time there was broad recognition that each of these groups had become heavily involved in the drug trade. This artificial distinction created scenarios where field commanders only had a fraction of the potential capability available for a particular mission, which became a significant impediment to the success of operations.¹

(U) Prior to Section 1021's enactment, this inefficiency affected DoD's counternarcotics support as well. In recognition of this inefficiency, and given the renewed emphasis on global CT operations following the terrorist attacks of September 11, 2001, Congress approved "expanded authorities" for the Departments of State and Defense to remove this barrier.

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(U) The authority that has become known as “section 1021,” as requested by the Administration, authorizes funds available to the Department of Defense to provide assistance to the Government of Colombia to be used by the Secretary of Defense to support the Government of Colombia’s unified campaign against narcotics trafficking and against activities by designated terrorist organizations in Colombia. Although the term “section 1021” is a reference to section 1021 of the National Defense Authorization Act for 2005, the original legislation authorizing counter-narcoterrorism support for Colombia first appeared in the Emergency Supplemental Appropriations Act for FY 2002 (P.L. 107-206). The Conference Report characterizes the provision as providing “broader authority to the Department of Defense for assistance to Colombia.”

(U) The leftist FARC and the National Liberation Army (ELN) were designated as foreign terrorist organizations, pursuant to P.L. 104-13, in 1997 and subsequently redesignated in 2001. The right-wing United Self-Defense Forces of Colombia (AUC) were first designated as a foreign terrorist organization in 2001.ⁱⁱ By 2002, the FARC and the AUC had also become heavily involved in the drug trade, at times fighting over drug trafficking routes and at times cooperating with one another. As such, both organizations were designated as Significant Foreign Narcotics Traffickers under the Foreign Narcotics Kingpin Designation Act (P.L. 106-120) in 2003.

(U) The importance of this new law was noted in congressional testimony in 2003 by General James Hill, then the Commander of U.S. Southern Command (USSOUTHCOM):

(U) Key in our recent endeavors has been approval by the U.S. Congress of Expanded Authority legislation. This legislation has allowed us to use funds available for counterdrug activities to provide assistance to the Government of Colombia for a coordinated campaign against the terrorist activities of its armed groups. The granting of expanded authority was an important recognition that no meaningful distinction can be made between the terrorists and drug traffickers in our region. All three of Colombia’s terrorist groups are deep into the illicit narcotics business. Trying to decide whether a mission against a FARC unit was a counterdrug or counterterrorist one was an exercise in futility and hampered operational effectiveness on the ground. Expanded Authority has eliminated the time consuming step of first evaluating the mission based on its probable funding source and now allow us to bring to bear all our assets more rapidly.ⁱⁱⁱ

(U) Section 1021 makes clear that the authority is “in addition to other provisions in law to provide assistance to the Government of Colombia” and is tailored to apply to the unique context of Colombia’s efforts to confront a resilient, drug-fueled insurgency and bring about an end to its nearly 50-year-old civil war. In addition to the clear recognition of the inextricable link between drug trafficking and terrorism in Colombia, the law also provides specific new authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of hostage rescue operations. The FARC had long been involved in kidnapping when, in 2003, it took three Department of Defense contractors hostage when their plane went down in a remote part of Colombia. They were held by the FARC until 2008 when they were rescued in a well-publicized, sophisticated operation by Colombian security forces. Although these U.S. hostages were freed, the FARC continues to engage in kidnapping both as a financial and political tool to achieve its objectives, and the Colombian Ministry of Defense believes that 26 civilians and possibly one public security officer are currently being held hostage by the FARC.^{iv} The authority provided by section 1021 to provide for hostage rescue or other

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humanitarian operations remains valuable to safeguard U.S. interests in Colombia, which is home to a large number of U.S. civilian, military, and contract personnel. Section 1021 also included a cap on military and contractor personnel along with a prohibition of U.S. military, contractor, or civilian personnel from participating in combat operations, with the exception of self-defense or rescuing any U.S. citizen or contractor employed by the United States.

(U) The expanded authorities requested by the Administration and provided by Congress coincided with a significant expansion of the security component of Plan Colombia, placing greater emphasis on a “clear, hold, and consolidate” strategy to assert state control over the majority of Colombia’s territory, particularly in areas where illegal armed groups and drug traffickers operated. Expanded authority provided to DoD, as well as the State Department, allowed both agencies to support Colombia’s stepped-up security strategy.^v The enactment of expanded authorities also coincided with the 2002 election of Colombian President Alvaro Uribe, who campaigned on a platform of taking a tougher approach and who equated the guerrilla groups as drug traffickers and terrorists. President Uribe launched a military offensive known as *Plan Patriota* to recapture guerrilla-controlled territory, and levied a war tax to bring greater resources to confronting narcoterrorism.

(U) Although none of these events or changes should be seen as the “silver bullet” that led to Colombia’s success, the combination of these mutually reinforcing events has proven to establish Colombia on the path toward a lasting peace in its internal struggle and to become a reliable security partner, both within and outside the Western Hemisphere.

(U) How Section 1021 is applied

(U) The authority now known as section 1021 was enacted to resolve fiscal law concerns regarding whether DoD funds appropriated for counterdrug programs could be used in Colombia for counterterrorism purposes. With the exception of humanitarian support and hostage rescue, however, section 1021 does not provide new authority beyond what is provided through other provisions of law. The law allows DoD funds, including counternarcotics funds, to be used for counter-terrorism purposes, including to address high-value targets (HVT) that may or may not have direct ties to the drug trade. Section 1021 authority does not authorize additional categories of support or authorize expenditures in excess of existing limitations in other provisions of law, including the ten categories of support listed in section 1004 of the NDAA for 1991, as amended, or equipment support provided through section 1033 of the NDAA for 1998, as amended. Section 1021 remains relevant and useful by enabling support to be provided without first establishing a counternarcotics purpose before U.S. support may be provided, which greatly enhances operational flexibility in Colombia.

(U) Although section 1022 of the NDAA for FY 2004 authorizes CN support for CT purposes globally, section 1021 is not subject to certain requirements (conditions) of section 1022. The most significant difference between the two provisions is that section 1022 requires a national security interest waiver - and notification to Congress - if there is no significant relationship between the objectives of providing CN support and the objectives of providing CT support. This requirement of Section 1022, therefore, limits support for exclusively CT activities to only those instances where there is a vital U.S. national security interest. Section 1021, on the other hand, is

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tailored to Colombia's unique context, including the close nexus between drug trafficking and terrorism and the close partnership of the United States and Colombia in this clear, shared national security objective of confronting Colombia's drug-fueled insurgency.

(U) Types of support enhanced/enabled by section 1021.

(U) Because the history and prior practice would indicate that the predominate purpose of section 1021 is to resolve issues related to the appropriations source, rather than specific activities authorized, few – if any – activities in Colombia can be considered to be authorized solely under section 1021. At the same time, the number of activities that are not supported by section 1021 in some way is very small. As the discussion above shows, any distinction between counter-terrorism support and counternarcotics support in Colombia is insignificant given the long-established history of terrorist organizations' deep involvement in the drug trade. Federal appropriations law requires that appropriated funds may only be used for purposes specifically authorized in law. Therefore, nearly all counternarcotics support provided by DoD in Colombia can, and should, be considered to be authorized under the foundational authority of section 1004, section 1033, or other provision of law. Section 1021 allows the flexibility to employ these authorities towards Colombia's unified campaign. Distinguishing which activities are authorized exclusively under section 1021, and which are not, would create a challenging and unnecessary administrative burden, while undermining the key purpose for which the authority was originally established. Therefore, this notification covers all counternarcotics support to Colombia, which makes up virtually all support that could be characterized as authorized by section 1021.

(U) DoD counternarcotics support to Colombia consists of training, equipment, intelligence analysis, aerial and ground surveillance, and minor military construction for the establishment of bases of operations or training facilities. Counternarcotics support to Colombia is distributed to the U.S. Armed Services through the DoD Counternarcotics Central Transfer Account (CTA), based on the requirements developed through USSOUTHCOM. CN support to Colombia is distributed through the following six project codes (PC), as described below:

(U) PC9201 USSOUTHCOM CN Operational Support: PC9201 supports classroom and military training team deployments in support of maritime training for the Colombian Navy focused on boarding officer, riverine instructor, and small-boat maintenance; aviation training for the Colombian Air Force focused on aviation maintenance, corrosion control, and maintenance; support to bases of operations, C4 (command, control, communications, and computers) networks, and training to Colombian security forces conducting operations against drug trafficking organizations. Support provided through PC9201 includes:

- (U) Helicopter and aviation life support maintenance training and base operational support for the Colombian Army's Air Assault Division;
- (U) Weapons and night-vision maintenance and training, and tactical operational-level planning support to the Colombian Army;
- (U) Riverine small-boat maintenance support and training to the Colombian Marines;
- (U) Colombian Coast Guard small-boat training and maintenance sustainment of Colombian small-boat fleets;

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- (U) Aerial drop, K-9, aviation physiology training support to the Colombian Air Force to conduct aerial resupply, combat search and rescue, and port of entry inspection for illicit traffickers; and
- (U) Intelligence analysis and reconnaissance support to the Colombian military services intelligence forces, including training on intelligence integration supporting Colombian military operations.

(U) PC9201 has provided CN support to Colombia since the beginning of Plan Colombia. DoD would therefore expect such training and operational support to continue to be provided as long as Colombia requires U.S. partnership to confront this shared national security threat. As the purpose of this support is to build the capacity of Colombian security forces, DoD would anticipate that DoD funding would diminish over time, as Colombia continues to make progress in building its counternarcotics capabilities.

(U) PC2314: PC2314 is a classified activity.

(U) PC9415 Regional Pilot Training School: PC9415 provides U.S. Army Technical Assistance Field Team support, helicopter and simulator maintenance, repair parts, and supplies to the Colombian Air Force's Joint Rotary-Wing Training Center in Melgar, Colombia. DoD funding provides for the refurbishment of helicopters, parts, infrastructure, and operational support for the training facility. In addition to maintaining the Colombian military student requirements, the facility can train up to 24 international students per year and supports training for Mexican and other South American student pilots. This program began a five-year nationalization plan for transferring the program to Colombian Air Force operations. USSOUTHCOM anticipates that by the end of FY 2019, support within this program will be nationalized. Following this transition, DoD expects to continue providing limited support for the center to capitalize on the capacity developed to train international partners for CN pilot requirements within Latin America.

(U) PC9494 USSOUTHCOM Enhanced Section 1033 Support: PC9494 provides Scan Eagle unmanned intelligence, surveillance, reconnaissance systems to the Colombian Air Force to conduct low observable surveillance of illicit trafficking in support of the "Espada de Honor" campaign against the FARC. Equipment support has also helped expand Colombia's riverine and maritime interdiction forces that play a significant role in Colombia's military operations against illegal armed groups and the interdiction of illegal drugs and arms along Colombia's Pacific Coast.

(U) Enhanced section 1033 support will continue to decline in Colombia as DoD finalizes its major end-item purchases for the Colombian militaries. The Department achieved final operating capacity of the Colombian Navy's small-boat program, and the Colombian Army's prime movers, by FY 2006, and the Department anticipates completing the expansion of Colombian Air Force's Scan Eagle program by FY 2016. This completion should allow DoD support to focus on providing spare parts and more limited equipment purchases to replace obsolete items.

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(U) PC6502 U.S. Special Operations Forces (SOF) CN Support to USSOUTHCOM: PC6502 provides U.S. SOF training to Colombia's security forces in close-quarter battle, small-unit tactics, airmobile, marksmanship, small-craft handling, and joint operational planning. Other activities include intelligence analysis and linguist support. All training includes human rights awareness. SOF counter-narcoterrorism (CNT) deployments included a continuous presence in Colombia, providing sustainment training for the Colombian Special Operations Command, Colombian Counternarcotics Brigade, Colombian Army (COLAR) Lancero Group, and COLAR Re-Training Center. The executive agent for this project code is U.S. Special Operations Command (USSOCOM). U.S. SOF CN support to USSOUTHCOM is critical to the Colombian Army's continued success against HVTs in Colombia. As the Colombia Army continues to pressure the FARC for a peace resolution, these SOF continue to provide critical capacity-building support to Colombian units and commanders. Although the Department anticipates a reduced presence within Colombia, we would continue baseline presence to ensure interoperability with the Colombian SOF to counter illicit drug trafficking once conflict resolution with the FARC is achieved.

(U) PC4208 Mobile Air Surveillance Systems (MASS): PC4208 provides technical assistance, repair parts, fuel, and maintenance support to the Colombian Air Force's five TPS-70 ground-based radars at Marandua, San Jose, San Andres, Riohacha, and Tres Esquinas. The program provides surveillance data from integrated partner nation radar systems to JIATF-S in support of broader interagency interdiction efforts in the drug transit zone. The MASS program support fulfills a U.S. detection and monitoring requirement, while providing critical aerial domain awareness to Colombia. The Department has established a nationalization timeline to end fuel support to the program by FY 2015.

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(U) Detailed breakout for FY 2014 spend plan (based on PCs described above).

(U) The following table provides anticipated expenditures for FY 2014 for Colombia under the authority of sections 1004, 1033, and 1021 of the respective NDAAs. The table includes FY 2014, the project code, a brief description, and the DoD component responsible for the program's execution, based on USSOUTHCOM requirements and oversight.

Classification	Executing Agency	Project Code	Category	FY2014 Funding (\$000)
U	U.S. ARMY	PC2314	Classified	\$ 7,521
U	U.S. Air Force	PC4208	Detection and Monitoring	\$ 7,172
U	USSOCOM	PC6502	Training	\$ 5,641
U	U.S. ARMY	PC9201	Infrastructure/Training	\$ 13,624
U	U.S. ARMY	PC9415	Training Facility	\$ 13,330
U	U.S. ARMY	PC9494	Equipment	\$ 1,300
COLOMBIA Total				\$ 48,588

ⁱ Congressional Research Service (CRS) Report to Congress, *Plan Colombia: A Progress Report*, June 22, 2005, p. 7.

ⁱⁱ Congressional Research Service (CRS) Report to Congress, *Plan Colombia: A Progress Report*, June 22, 2005.

ⁱⁱⁱ Congressional testimony of General James Hill, Commander, U.S. Southern Command, before the Senate Caucus on International Narcotics Control, June 3, 2003.

^{iv} As of February 2014.

^v Government Accountability Office (GAO) Report, *Plan Colombia: Drug Reduction Goals Not Fully Met, but Security Has Improved; U.S. Agencies Need More Detailed Plans for Reducing Assistance*, October 2008.