

ISSUE BRIEF

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The Colombian–FARC Peace Deal: Why It Failed, and How the U.S. Can Support a Responsible Renegotiation

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On October 2, Colombians rejected a peace deal in a popular referendum negotiated by their government and the Revolutionary Armed Forces of Colombia (FARC), a Marxist guerilla group. Intended to bring an end to Colombia’s 52-year war, the pact lost by a razor-thin margin, 50.21 percent to 49.78 percent.¹ While public opinion polls had indicated support for the peace deal, overwhelming disapproval of FARC becoming a political party brought it down.

Despite the defeat, Colombian President Juan Manuel Santos and FARC leaders continue to state their commitment to peace. Shortly after the referendum vote, negotiators from both sides met again in Havana—Cuba’s president, Raul Castro, hosted the talks—to discuss and renegotiate the controversial terms of the deal. While the Colombian government and FARC have extended a bilateral cease-fire to December 31, a new deal is not expected by then.² The U.S. has been deeply involved in Colombia—America’s strongest ally in the region—for years and has an interest in ensuring that the peace deal safeguards U.S. interests in the region. As negotiations for a new peace deal move forward, the U.S. should keep FARC on the State Department’s Foreign Terrorist Organizations (FTO) list, intensify efforts to locate hidden

FARC financial assets, and guarantee the continuation of security cooperation.

Where the Deal Fell Short

For the past 52 years, FARC has waged a war to overthrow the Colombian government. Alongside drug cartels and other criminal groups, FARC has wreaked havoc in Colombia. Since 1999, the U.S. has invested \$10 billion in Colombia through the economic and security development package known as Plan Colombia. As a result of this bilateral cooperation, Colombia emerged from the brink of being a failed state to an economic and security success story. It is in the U.S. vital interest to ensure these gains are not lost.

President Santos’s recent pact was not the first government attempt at peace with FARC. From 1999 to 2002, then-President Andrés Pastrana attempted to negotiate with the guerillas, going as far as designating a demilitarized zone (DMZ) for negotiations within Colombia. Pastrana broke off talks when it was revealed that FARC was using the DMZ to build up its military capabilities.³

Álvaro Uribe, his successor, took a different approach. His Democratic Security and Defense Policy is credited with FARC’s military defeat and bringing Colombia back to the road to recovery. When Uribe took office in 2002, FARC’s numbers were estimated upwards of 20,000 guerilla fighters.⁴ Now, thanks to Uribe’s actions, FARC numbers less than 7,000.

It was under those conditions that the Santos administration and FARC entered into formal peace talks in 2012. The leading voices in opposition to Santos’s efforts were his predecessors Uribe, now a sena-

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tor, and former president Pastrana. Throughout the talks, many Colombians perceived Santos as conceding too much to the guerillas, because the deal would have allowed FARC to become a political party.

Under the rejected deal, the Colombian government and FARC would have worked in tandem to create a special legal framework and judicial system. Essentially, FARC members would have received the same legal power to prosecute Colombian government officials and vice versa.⁵ The rejected deal would also have shielded an unknown number of FARC guerillas from jail for drug trafficking, recruitment of child soldiers, and other crimes.⁶ Although not explicitly stated in the text of the peace agreement, leniency toward FARC would have included protection from U.S. extradition orders as well. In December 2015, in the midst of peace talks, Santos denied a U.S. extradition order for a FARC guerilla wanted in the United States. The deal would have formalized this practice, and prevented the extradition to the U.S. of at least 60 wanted FARC guerillas—including nacroterrorists and those who had killed or kidnapped American citizens.

Further complicating circumstances for the U.S. were separate requests from President Santos and FARC that the U.S. remove FARC from its FTO list.⁷ This decision would have had far-reaching implications. FARC's FTO designation is well earned, and removal at this point would be premature. It took the U.S. government more than eight years to delist the United Self-Defense Forces of Colombia (AUC) after they demobilized, and that was a much smaller outfit than FARC.

Despite a continued active drug trade, the number of U.S.-led operations against FARC narcotics

operations had reportedly declined throughout the peace-negotiation process. Colombia even temporarily suspended aerial coca-field spraying, a linchpin of drug-eradication programs. Under the deal, coca-crop eradication will now be a voluntary process, left fully up to local communities. Considering that Colombia has reclaimed its title as the world's number one coca-producing country, and from 2014 to 2015 its cocaine-production potential has increased by 46 percent, U.S.-supported counter-narcotics measures are critical.

How Congress Can Support a Responsible Agreement

The U.S. and Colombia have a long-standing strategic partnership, and, as a new deal is negotiated, the U.S. will play a critical support role. Since 2015, the U.S. Special Envoy for the Colombian Peace Process has been in Havana, working alongside both negotiating teams. While Colombia's sovereignty must be respected, both Colombia and the U.S. should recognize that any peace deal will have a lasting impact on their national security and regional stability. In order to help Colombia to secure an outcome that is in America's best interests, the U.S. should:

- **Keep FARC's FTO designation.** Arguments for delisting in order for the U.S. to fund FARC demobilization are baseless. Demobilizing guerillas is not the central component of the U.S.'s contribution to the peace process. Additionally, funding from other foreign donors not beholden to this restriction, like the European Union and United Nations, will be available.

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2. Pete Burn, "Colombia Extends Ceasefire with Rebel Group," CNN, October 14, 2016, <http://www.cnn.com/2016/10/14/americas/colombia-farc-ceasefire/> (accessed October 15, 2016).

3. Harvey F. Kline, *Chronicle of a Failure Foretold: The Peace Process of Colombian President Andrés Pastrana* (Tuscaloosa, AL: The University of Alabama Press, 2007).

4. James Bargent, "The FARC 2002-Present: Decapitation and Rebirth," *InSight Crime*, May 26, 2014, <http://www.insightcrime.org/investigations/farc-2002-present-decapitation-rebirth/> (accessed October 5, 2016).

5. Adriaan Alsema, "Transitional Justice in Colombia: A Very Sharp Double-Edged Sword," *Colombia Reports*, July 27, 2015, <http://colombiareports.com/transitional-justice-in-colombia-a-very-sharp-two-edged-sword/> (accessed October 20, 2016).

6. Ana Quintana, "Washington Must Remedy Colombia's Flawed FARC Deal," *The National Interest*, February 4, 2016, <http://nationalinterest.org/feature/washington-must-remedy-colombias-flawed-farc-deal-15108> (accessed October 5, 2016).

7. "Colombia to Ask for Policy Tweaks in Aftermath of FARC Conflict," *The Guardian*, February 4, 2016, <https://www.theguardian.com/world/2016/feb/04/colombia-farc-president-obama-white-house-visit> (accessed October 5, 2016).

- **Intensify efforts to locate FARC assets.** In 2012, Colombian intelligence services estimated annual FARC drug-trafficking revenues to be around \$3.5 billion, yet the location of FARC money and assets are largely unknown. Illicit money cannot remain in FARC control if the group intends on becoming a political party and running for office.
- **Formally request an itemization of FARC weapons prior to demobilization.** The prior peace deal stipulated that the United Nations would be in charge of collecting and storing FARC weapons only after the deal had been approved. If the United States is to support the demobilization process financially, Congress ought to request that these weapons be counted and stored well in advance of the vote.
- **Continue anti-drug-trafficking operations.** Congress must ensure that a future peace deal does not weaken existing efforts on bilateral counternarcotics or countercrime assistance. FARC objections to U.S. security assistance for Colombia are well documented and must not be allowed to influence a future peace deal.
- **Reaffirm commitment to bringing FARC guerillas wanted in the U.S. to justice.** While jurisdiction for extradition orders falls under the Department of Justice, Congress should urge the U.S. special envoy to relay that the U.S. will continue carrying out extradition orders for wanted FARC guerrillas.

Working Toward a Lasting Peace

After 52 years, it is past time to end the armed conflict in Colombia. Congress should remain vigilant in the coming months as the deal is renegotiated in Havana. Much work remains to be done, but with U.S. support, a responsible peace agreement can be reached.

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