

REPORT RELATING TO THE INTERDICTION OF
AIRCRAFT INVOLVED IN ILLICIT DRUG TRAFFICKING

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT INCLUDING MATTERS RELATING TO THE INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING, PURSUANT TO 22 U.S.C. 2291-4



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THE WHITE HOUSE,
Washington, January 31, 2008.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: consistent with the authorities relating to official immunity in the interdiction of aircraft engaged in illicit drug trafficking (Public Law 107-108, as amended, 22 D.S.C. 2291-4), and in order to keep the Congress fully informed, I am providing a report prepared by my Administration. This report includes matters relating to the interdiction of aircraft engaged in illicit drug trafficking.

Sincerely,

GEORGE W. BUSH.

UNITED STATES ASSISTANCE FOR THE INTERDICTION OF AIRCRAFT
ENGAGED IN ILLICIT DRUG TRAFFICKING

Colombia and Brazil are the only countries for which the President made a certification under 22 U.S.C. 2291-4 in calendar year 2007. The President signed Presidential Determination 2007-28 on August 16, 2007, for Colombia, and Presidential Determination 2008-3 on October 16, 2007, for Brazil. In doing so, the President certified with respect to Colombia and Brazil that: (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) each country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft. Consistent with 22 U.S.C. 2291-4(c), this report contains the following information for both Colombia and Brazil: (a) the nature of the illicit drug trafficking threat to the country; (b) an explanation of safety procedures in place to protect against the innocent loss of life in the air and on the ground in connection with interdiction, including any training and other mechanisms in place to ensure adherence to such procedures; (c) a description of assistance provided by the United States to the interdiction program; and (d) a summary of the country's aircraft interception activity for which the United States provided assistance in calendar year 2007.

COLOMBIA

(A) On August 21, 2003, the Airbridge Denial (ABD) Program in Colombia began operations. In making a fifth certification for Colombia in August 2007, the President determined that narcotrafficking continues to pose an extraordinary threat to Colombia's national security on the basis of several factors. These factors include: 1) Colombia is still the world's largest producer of cocaine and a supplier of high-quality heroin; 2) Colombia faces a growing cocaine abuse problem; 3) Colombian drug trafficking organizations bribe Colombian officials and pay illegal armed groups to protect their organizations; 4) illegal revenue from the Colombian drug trade disrupts the legitimate Colombian economy; and 5) narcotrafficking presents a corrosive threat to the democratic institutions of government and law enforcement. Significantly, drug trafficking also serves as the primary source of funding for the Revolutionary Armed Forces of Colombia and is an important source of funding for the Colombian National Liberation Army, both of which are classified by the Department of State as Foreign Terrorist Organizations, as well as a source of funding for other illegal armed groups.

(B) From January I, 2007 until March 14, 2007, the ABD Program's safety procedures were defined by the bilateral Letter of Agreement, signed on April 28, 2003. From March 14, 2007 through December 31, 2007, the procedures were defined by the first superseding bilateral Letter of Agreement, signed on March 14, 2007.¹ No substantive changes were made to the procedures by the first superseding agreement. In calendar year 2007, the basic procedures for aerial interception of an unidentified assumed suspect (UAS) flight were as follows:

- Detection, Sorting, and Identification. When the Government of Colombia (GOC) detects or is informed of an aircraft operating in a defined zone of control that is a candidate for possible ABD action (a "track of interest"), information on that aircraft shall be gathered by the GOC from all reasonably available sources, including radar systems, radio and visual contact with the aircraft, electronic systems (which help determine whether the plane is traveling on a filed flight plan and what type of plane it is), and relevant air traffic control centers, to begin to determine whether the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. That determination shall be made by the Battle Commander Officer in the Colombian Air Force's Command and Control Center (CAFCCC), based upon certain factors set out in the Agreement, in conjunction with other information provided to GOC and U.S. participants in the ongoing action.

- Monitoring. If the GOC determines or has preliminary reasons to believe that an aircraft is engaged primarily in illicit drug trafficking, the GOC will track and monitor the aircraft. If tracking is intermittent, the GOC shall make positive reidentification with reasonable certainty before the ABD event may continue. If the GOC has been unable to identify the track of interest as a legitimate track, the Colombian Air Force (CAF) shall consider the aircraft to be "suspect" under CAF procedures and may initiate efforts to intercept it.

- Phase I—Interception. The interception phase includes attempts to contact the intercepted aircraft by radio and, if necessary, by visual signals, in order to determine the identity of the pilot or intercepted aircraft. If, during this phase, the GOC determines that the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking (on the basis of several factors), the CAF may order the intercepted aircraft to land at a designated place suitable for a safe landing. If, after being intercepted, the aircraft does not comply with the procedures and instructions given by the CAF, the pilot may request permission to proceed to Phase II.

- Phase II—Use of Warning Shots. Phase II consists of the firing of warning shots, using ammunition containing tracer rounds, in order to demonstrate to the pilot of the intercepted aircraft that he must comply with the interceptor's order. If all of the procedures required under the Agreement have been followed, the information gathered continues to indicate that an aircraft is suspect, and the

¹A second superseding Letter of Agreement was signed on December 20, 2007 and entered into force on January I, 2008. As described below, the new agreement introduces some changes to the United States Government oversight of the Colombia program.

aircraft fails to respond to the interceptor's order to land, the GOC may move to Phase III.

- Phase III—Firing of Weapons at Intercepted Aircraft in the Air. If, after warning shots are fired under Phase II, the intercepted aircraft does not acknowledge or follow the interceptor's directions, the Colombian interceptor aircraft may only fire weapons at the intercepted aircraft if he requests and receives permission to do so. The Commander of the Colombian Air Force (COCAF) must review all such requests. The COCAF may approve such a request after verifying that all procedures required under the Agreement have been followed. Upon receipt of the authorization, the interceptor aircraft shall warn the intercepted aircraft that it will be fired upon if it refuses to comply, using International Civil Aviation Organization radio communications procedures, and using the appropriate frequencies.

The interceptor shall use reasonable force to disable the intercepted aircraft, starting with a minimum level of fire in an attempt to persuade the intercepted aircraft to land as directed. The intercepted aircraft shall be given a reasonable opportunity to obey the previously issued orders to land before the interceptor uses additional force. Levels of force may be increased if the intercepted aircraft continues to refuse to follow the interceptor's directions. Both the United States Government and GOC acknowledge that even the minimum level of force could result in loss of life. If the intercepted aircraft has landed or been shot down, the interceptor aircraft or tracker aircraft shall give immediate notice to the CAFCCC of the location of the intercepted aircraft.

The safety procedures require similar identification and warning procedures when a suspected narcotrafficking aircraft has been located on the ground. Furthermore, the United States Government and GOC have agreed upon additional restraints on the use of force, including a prohibition on the use of force against state or commercial aircraft, aircraft that have filed and are not significantly deviating from a flight plan, aircraft whose pilots appear to be incapacitated, and aircraft whose pilots genuinely appear to be under duress.

In addition to the safety procedures described above, the Letters of Agreement governing the ABD Program in 2007 provided for oversight by three United States Government personnel: a ground safety monitor, an air safety monitor, and a Joint Interagency Task Force—South (JIATF-S) Command Duty Officer (collectively, the ABD "safety oversight triad"). All three entities in the safety triad are required to be involved in all Phase I, II, and III actions.²

In past years, the United States Government trained the GOC's pilots and sensor operators to operate the Citation tracking aircraft involved in the program. In 2007 pilot and crew refresher training, as well as training of new Colombian personnel, were ongoing as the program matured. A semi-annual review of the program held in February 2007, helped to address issues that have arisen in the

²As of January 1, 2008, and pursuant to the second superseding ABD Letter of Agreement signed on December 20, 2007, the nationalities of participants in the "safety oversight triad" will be modified. The structure and purpose of the triad will remain the same but, consistent with the broader "nationalization" of the ABD Program, the air and ground safety monitor will be provided by the Government of Colombia. The JIATF-S Command Duty Officer will continue to provide United States Government oversight.

program's implementation. Furthermore, the United States Government received weekly and monthly reports on program events.

(C) In 2007 the United States Government provided a number of positions to Colombia's ABD Program, including a Department of Defense JIATF-S Tactical Commander and a JIATF-S Command Duty Officer, a Ground Safety Monitor in the CAFCCC, Air Safety Monitors on board GOC tracking aircraft, and a Host Nation Rider Assistant.³

The JIATF-S Tactical Commander exercised command and control of United States Government ABD assets through JIATF-S's Joint Operations Center (JOC). The JIATF-S Command Duty Officer was the Tactical Commander's senior watch officer at the JOC. The Ground Safety Monitor was the United States Government's representative at the CAFCCC during ABD operations. The Air Safety Monitor was the United States Government's representative on tracking aircraft and was available to observe decisions made by GOC personnel, communicates with the U.S. Ground Safety Monitor and the JIATF-S Command Duty Officer, and reported to them whether the agreed-upon procedures were being followed. The Host Nation Rider Assistant served as a United States Government representative who assisted the Host Nation Rider on board the detection aircraft. An employee of the Narcotics Affairs Section in the U.S. Embassy in Bogotá is devoted exclusively to overseeing implementation of this program.

From January 1, 2007 until December 31, 2007, the United States Government provided to the GOC five Citations aircraft on a no-cost loan basis for use in the ABD program. On January 1, 2008, the United States transferred title to these aircraft to the Government of Colombia. The United States Government provided radar information and intelligence to the GOC.

Additional U.S. assets (both aircraft and personnel) from the Departments of Defense and Homeland Security have provided support for this program under the conditions contained in the Agreement.

In addition, the GOC has agreed that the five U.S.-supported ground-based radars and the Peace Panorama System (the airspace management system linking ground-based radars in Colombia to a central radar picture) constitute United States Government support for ABD.

(D) From January 1, 2007 until December 31, 2007, the GOC, with U.S. assistance, identified over 80 UAS flights within Colombian airspace. Over ten of these unidentified flights were determined to be legal flights. The GOC was in a position to act upon approximately 53 of the remaining 70 UAS flights. Of these, the GOC forced three suspect drug-trafficking aircraft to land, and impounded them. The GOC impounded two other aircraft in Colombia during routine inspections on legal airfields. Additionally, they seized 1.2 metric tons of cocaine and arrested three persons in connection with illegal aerial drug trafficking. Four suspect aircraft were destroyed in Colombia, and another aircraft was impounded in Central America as a result of Colombian coordination with

³As of January 1, 2008, and pursuant to the second superseding ABD Letter of Agreement signed on December 20, 2007, the GOC—rather than the United States—will provide the air and ground safety monitors for the ABD Program.

JIATF-S and Central American authorities on flights departing Colombian airspace heading towards Central America. The United States Government is unaware of any deaths or injuries resulting from the GOC's actions with respect to these flights.

BRAZIL

(A) Brazil's ABD program began operations on October 17, 2004. In making a fourth certification for Brazil pursuant to 22 U.S.C. § 2291-4, the President determined, inter alia, that narcotrafficking poses an extraordinary threat to Brazil's national security. Aerial drug shipments are a key component of this threat and a preferred method of narcotrafficking. The amount of cocaine shipped through Brazil has increased over the last decade. It is estimated that well over 100 metric tons of cocaine enter Brazil annually, with one-third to one-half of it remaining in-country. Additionally, there are confirmed ties between drug traffickers and those involved in illegal arms trafficking. The resulting domestic drug trade has fueled widespread urban violence in Brazil, notably in São Paulo and Rio de Janeiro, as organized criminal gangs fight to control a share of the lucrative enterprise.

(B) The goal of Brazil's interdiction program is to facilitate the safe landing of intercepted aircraft so that law enforcement personnel may take control of the aircraft on the ground. If an aircraft is suspected to be primarily engaged in drug trafficking, the Government of Brazil (GOB) will take several steps to identify, contact, warn, divert, and, if necessary, take action to coerce the aircraft down without using deadly force against the aircraft in the air. As a last resort, however, the Brazilian Air Force Commander may authorize the use of lethal force to bring down the aircraft if it refuses to respond to the full range of program actions taken by the Brazilian Air Force. The basic procedures are as follows:

- **Initial Classification.** When the GOB detects an aircraft that displays irregular air traffic traits, it will consider that aircraft to be "unidentified" (also referred to as a "track of interest") and a candidate for possible aerial interception. The GOB will proceed to gather information on that aircraft to determine whether the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. If the GOB is unable to identify the aircraft as legitimate, the aircraft will be considered "surveillance worthy" by the Brazilian Air Force and may be intercepted.

- **Interception.** During interception, the GOB will attempt to determine with greater certainty the identity of the intercepted aircraft. The tracker or interceptor aircraft will take all reasonable measures to identify the intercepted aircraft by visual or electronic observation of the nationality markings, registration number, license number, or identifying features of the intercepted aircraft. The GOB will further attempt to gather information regarding the intercepted aircraft that may help determine whether the intercepted aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. If the aircraft is determined to be so, the Brazilian Air Force classifies the aircraft as "suspicious" and may proceed to the interrogation phase.

- **Interrogation in the Air.** The tracker or interceptor aircraft will attempt to establish radio or visual communication with the

intercepted aircraft and order it to change its routing or to land, if factors continue to support a determination that the aircraft is primarily engaged in illicit drug trafficking.

- **Use of Warning Shots.** The GOB will move to the firing of warning shots to demonstrate to the pilot of the intercepted aircraft that he must comply with the interceptor's order if the gathered information continues to indicate that the aircraft is suspect and the aircraft fails to respond to the interceptor's order to land. Warning shots may only be ordered and authorized by the Airspace Defense Senior Authority or the Air Operations Commander, after verification that all requisite procedures have been satisfied. The intercepting aircraft will fire the warning shots from a beam of the intercepted aircraft in a position that will permit the intercepted aircraft to see the intercepting aircraft, but that will avoid damage to the intercepted aircraft. Intercepted aircraft that comply with the orders of the interceptor aircraft after warning shots have been fired will be escorted to land at a designated airfield, where law enforcement authorities will subject it to ground control measures.

- **Firing of Weapons at Intercepted Aircraft in the Air.** If, after warning shots are fired, the intercepted aircraft does not acknowledge or follow the interceptor's directions, the aircraft will be designated as "hostile" and will, after appropriate authorization from Brazilian authorities, be subject to being shot down. The Brazilian Air Force Commander-in-Chief may only authorize the use of lethal force after verifying that all requisite procedures have been followed. The first burst of fire used against the intercepted aircraft will be as brief as possible and preferably without using ammunition capable of causing a tank explosion. After the first burst of fire, the pilot of the intercepting aircraft will relay information regarding the effect of the fire to the Air Force Commander-in-Chief and try to contact the intercepted aircraft again, if possible, before requesting authorization to fire again. Once an intercepted aircraft lands, the Brazilian federal police will attempt to take control of the aircraft for law enforcement purposes.

(C) Brazil's aerial interdiction program differs from Colombia's in that, among other things, Brazil independently administers its program. The GOB is solely responsible for all actions relating to each aerial interdiction event, but has committed to share pertinent operational information about such events after the fact with the United States in a timely and transparent manner. Although the GOB neither requires nor has requested a direct U.S. role in support of its program, the Brazilian Liaison Officer at JIATF-S has access to real-time aerial-interception related information, and various agencies of the United States Government currently provide assistance to Brazil that could be relevant to the Brazilian interdiction program, such as cooperative law enforcement programs, intelligence sharing, and approvals of military sales.

(D) During the 2007 reporting cycle, the United States Government is unaware of any incidents in which the Brazilian Air Force security forces, including the Brazilian Air Force, federal police, and other law enforcement agencies, used lethal force against aircraft under Brazil's interdiction program or any deaths or injuries resulting from Brazilian Air Force action related to the program.

The GOB has shared with the United States Government its official statistics for the operation of its interdiction program between January and July 2007, on the condition that the information is treated confidentially. The data is not included in this report, but can be made available upon request to congressional members and staff. The U.S. Embassy in Brasilia is seeking from the GOB the program's operational statistics for the remainder of 2007 and will make those statistics available upon request as well.

