

# Colombian high court rejects US bases agreement

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**21 August 2010**

Colombia's high court ruled Tuesday that a treaty allowing the US access to military bases in the country is unconstitutional because the former government of right-wing President Alvaro Uribe failed to submit the pact to the national congress for approval. The decision has left the Obama administration as well as the new government of Uribe's successor, President Juan Manuel Santos, scrambling to salvage the pact.

The agreement, signed by then-Colombian Foreign Minister Jaime Bermúdez and the US ambassador in Bogotá, William Brownfield, at the end of October 2009, allowed the US to use seven Colombian military bases and airports, supposedly to prosecute Washington's wars on drugs and terrorism. The deal granted the US access to the facilities for 10 years, allowing the presence of up to 800 American military personnel as well as 600 private security contractors.

However, the deal, whose full contents have never been made public, sparked widespread condemnations in the region. The left-nationalist government of President Hugo Chávez in Venezuela charged that the bases would be used to prepare a US invasion of his country, an accusation echoed by the government of President Rafael Correa in Ecuador. Chávez froze trade relations with Colombia in response. Bolivia and Argentina also condemned the pact.

The Brazilian government, which has cemented close ties to Washington, also voiced its displeasure with the accord, suggesting that the US was attempting to use military might to shore up its position throughout Latin America. President Luiz Inacio Lula da Silva called upon Uribe to make public the contents of the agreement and to guarantee that the US forces deployed at the new bases would be allowed to operate only "inside Colombia and not on the borders of other countries."

Opposition to the plan was heightened by the release of a Pentagon document that suggested one of the bases, an

airfield at Palenquero, was intended neither for counter-narcotics nor counter-terrorism operations, but rather to provide the US military with the capacity to conduct "strategic airlifts" of troops and tanks directed to all parts of the South American continent. The document argued that such a facility was necessary in "a critical region where security and stability are under constant threat from governments hostile to the United States."

While both Washington and Bogota suggested that the base agreement had been necessitated by the decision of the Ecuadorian government to shut down a US air base in the Pacific coastal city of Manta, critics of the deal pointed out that none of the Colombian air bases were located on the Pacific, which is the main route for drug trafficking.

The other US installations include air bases at Malambo and Apiay, naval bases at Cartagena and Bahia Málaga, and army facilities at Tolemaida and Tres Esquinas.

This week's ruling by Colombia's Constitutional Court found that Uribe had violated the constitution by not treating his deal with Washington as an international treaty requiring congressional debate and approval as well as review by the court itself.

Both the Uribe government and the Obama administration had maintained that the bases deal was merely an extension of previous agreements reached under "Plan Colombia," through which Washington has funneled some \$5.5 billion in mostly military aid to the Colombian government since 2000, and other bilateral military treaties dating back to the 1950s.

The court, however, found that key features of the agreement went well beyond what had been negotiated in previous pacts. These included the extension of blanket immunity from Colombian law for US military personnel and private contractors committing crimes inside the country.

It also allows for free entry and exit from the country of

these personnel without passports or any requirement to pay normal fees. US military aircraft would be given unrestricted access to the country's airspace. And the US military forces would have the unrestricted right to carry weapons, free use of the country's telecommunications systems and the right to use its airwaves for satellite television and radio broadcasts.

As Jaime Araujo Renteria, an ex-president of Colombia's Constitutional Court, wrote at the time the agreement was first reported, "The installation of foreign bases, which is a renunciation of sovereignty, implies another renunciation, that of not judging soldiers who violate the law or the Colombian constitution; immunity which translates into impunity, as has already happened with North American soldiers involved in crimes or in drug trafficking." He added, "It worries us that President Obama has fallen into the trap of sacrificing human rights to military intervention."

The high court decision did not deal with the constitutionality of the contents of the agreement, but only with the constitutionality of the procedures used to implement it. It sent the treaty back to the Santos government to have it passed by the Colombian legislature.

Santos, who as Uribe's defense minister negotiated the pact with Washington, enjoys a substantial majority in the Colombian congress and could probably get the deal passed as a treaty. It is not yet clear, however, whether he intends to do so.

The Colombian president said that his government would study the agreement and "decide if it is worth continuing with the pact or not." His defense and interior ministers also insisted that the government would abide by the court's decision. Under Uribe, the government functioned in open hostility to the courts, subjecting top judges to electronic surveillance and harassment.

Santos added that his government would take into account an appeal by UNASUR (Union of South American Nations) that any treaty passed include specific clauses barring the use of the bases for any operations outside of Colombia.

For its part, the US State Department issued a statement demanding that Santos overcome the constitutional barrier and uphold the military deal. Department spokesman Philip Crowley said Wednesday that the Obama administration hopes "that the Santos government takes appropriate measures to guarantee that we can maintain our bilateral relationship," while adding that "our close cooperation with Colombia will continue under

previously existing agreements."

If the pact were ratified by Colombia as a treaty, it would also have to be ratified by the US Congress, with terms of the agreement made public for the first time in both countries.

Gen. Freddy Padilla, the former head of the Colombian armed forces, said Wednesday that he doubted that the US Congress would approve the pact "due to their foreign policy circumstances."

Weighing on the Santos government's decision are its relations with the rest of Latin America. Venezuela reestablished diplomatic ties with Colombia on August 10 following Santos' inauguration. They had been broken last month after the lame duck Uribe staged a deliberate provocation by charging the Chávez government with harboring camps of the FARC (Revolutionary Armed Forces of Colombia) guerrillas on Venezuelan soil.

Both Colombia's new foreign minister and the head of the country's Senate have since traveled to Caracas for talks on a range of bilateral issues, including trade and proposals for joint energy and infrastructure projects.

Chávez delivered a televised address pledging to redouble efforts to forge close relations with Colombia. "It doesn't matter that the right is governing in Colombia," he said. "It doesn't matter to me because, just as here the left governs because Venezuelans decided that, so there the Colombians decided that the right should govern."

The Santos government may see advantages for Colombia's ruling elite in letting the bases agreement lapse as a means of changing, at least on the surface, the pariah status that Colombia has earned in much of Latin America because of its unconditional alliance with Washington. US military aid could continue to flow uninterrupted under previous accords.

For the Obama administration, Bogota's backing away from the agreement would represent a setback to its drive to reassert US hegemony in the hemisphere by means of an expanded military presence.



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