

# Government-FARC humanitarian exchange accord

2 June 2001

The parties to this Accord, represented as follows: for the Government, Camilo Gómez Alzate, and for FARC-EP Jorge Briceño; and Joaquín Gómez as a representative member of FARC-EP,

## CONSIDERING

That Article 22 of the Colombian Constitution conceives peace as a mandatory duty and right;

That under Law 434/98, the peace policy is a State policy, and it is permanent and participatory. All organs of the State and all forms of organization, action and expression of civil society must cooperate in structuring it in a coordinated and harmonious manner, transcending the period of office of one or another government, and expressing the complexities of the situation of this country;

That the Colombian State has legal instruments to seek coexistence as a means of promoting reconciliation among Colombians, securing peaceful coexistence and peace;

That through these instruments the Government of Colombia may undertake any act designed to establish conversations or dialogue with the armed organization FARC-EP, acting outside the law, which the Government has recognized to have a political character;

That Article 8 of Law 418/97, renewed by Law 548/99, expressly gives the Government the permanent power, to be exercised by the Government alone, to sign agreements with the representatives of armed organizations which act outside the law which have been recognized to have a political character, designed to obtain solutions to armed conflict, the effective application of international humanitarian law, respect for human rights, the cessation or reduction of the intensity of hostilities, the reincorporation of the members of such organizations into civil life and the creation of conditions which favour a just political, social and economic order;

That Law 418/97, renewed by Law 548/99 provides that the State will encourage the establishment of a just social order which will secure peaceful coexistence, the protection of the rights and freedoms of the individual; and will adopt measures in favour of groups affected by marginalization or discrimination in order to achieve conditions of real equality and to provide all with the same opportunities for appropriate development of the individual, the family and the social group;

That the Government has decided to proceed with dialogue and negotiation with FARC-EP and to sign agreements with its representatives in accordance with the progress made at the negotiating tables, in order to create conditions for the reincorporation into civil life of the members of that organization, in order to favour a just political, social and economic order;

That FARC-EP have on many occasions stated that the signature of this Agreement would represent a substantial step forward in the peace process;

That as part of the peace process in train between the Government of Colombia and the FARC-EP, the Government and FARC-EP have stated their interest in seeking, at this point, a solution of the situation of the soldiers and policemen held by the FARC-EP;

That the sick and wounded are persons protected by international humanitarian law;

Have agreed to make this ACCORD, on the terms given below:

#### GENERAL

This Agreement is signed for humanitarian reasons and therefore its scope is restricted to its specific content; and

None of the terms of this Agreement reduce the minimum obligations of common Article 3 of the 1949 Geneva Conventions and their supplementary Protocol II, and the terms of this Agreement have no effect on the juridical status of the signatories in the light of the content of common Article 3 of the Geneva Conventions.

#### INSTRUMENTS

The Government of Colombia has verified the place of confinement and the judicial status of members of the FARC-EP, legally deprived of their freedom, who are sick, according to a list supplied by the FARC-EP;

The FARC-EP have delivered to the Government the list of sick soldiers and policemen in their power, and undertake to place them in places which will permit their easy and immediate verification by the International Red Cross Committee; and these places will be determined by the Government and FARC-EP;

In order to give effect to the measures referred to in this Agreement, the express permission of each of the persons deprived of their freedom who may be subject to such measures, must be obtained;

The Government has performed the appropriate medical examination through a group of doctors recommended by the International Red Cross Committee or an entity named by the Government, for the members of the FARC-EP referred to in this Agreement;

Having completed this process, the Government has delivered a list of 15 individuals who are members of that organization who, in its opinion, are subject to this Agreement; and it undertakes to follow all procedures required to secure a suspension of the detention order or sentence;

The FARC-EP ratify that the list of 42 sick soldiers and policemen delivered to the Government corresponds to the individuals to be released under this Agreement; and this number may be increased;

Once this Agreement is signed FARC-EP undertake to release Col. Alvaro Leon-Acosta immediately, given his state of health;

With regard to the sick soldiers and policemen in the power of the FARC-EP, once their state of health has been established the International Red Cross Committee will receive them at the place agreed by the parties, on the same day that the members of the FARC-EP are released.

The sick members of the FARC-EP to whom the Government has determined that this Agreement may apply, will be released to the International Red Cross Committee at their place of confinement, once the detention order or sentence has been effectively suspended;

The International Red Cross Committee will deliver them at the place and time agreed by the Parties;

FARC-EP undertake to release unilaterally at least 100 soldiers and policemen who are in their power and are not sick, within 15 days of delivery of the sick soldiers and policemen;

Given that they are sick, the members of the FARC-EP covered by this Agreement will not take part in future hostilities;

The Government and FARC-EP agree that the United Nations Organization and the Office of the People's Defender will be invited to attend on the day of the release of the sick;

Also, for the purposes of performance of this Agreement, there will be an international presence, and the ten Friends of the Peace Process countries and the United Kingdom are designated for this.

Given in San Vicente del Caguán,

2 June 2001

For the Government

Camilo Gómez Alzate

High Commissioner for Peace

FOR FARC-EP

José Iván Gómez

Jorge Briceño