

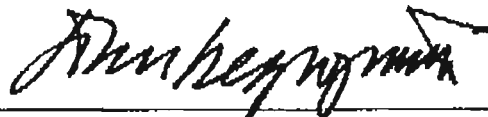
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DEPARTMENT OF STATE
Public Notice**

**CERTIFICATION CONCERNING THE BOLIVIAN MILITARY UNDER
THE FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS ACT, 2006 (P.L. 109-102),
AS CARRIED FORWARD UNDER THE REVISED CONTINUING
APPROPRIATIONS RESOLUTION, 2007 (P.L. 110-5)**

Pursuant to the authority vested in me as Deputy Secretary of State,
including under the heading "Andean Counterdrug Initiative" in the Foreign
Operations, Export Financing, and Related Programs Appropriations Act, 2006
(P.L. 109-102), as carried forward under the Revised Continuing Appropriations
Resolution, 2007 (P.L. 110-5), and State Department Delegation of Authority 245,
I hereby certify that the Bolivian military is respecting human rights, and civilian
judicial authorities are investigating and prosecuting, with the military's
cooperation, military personnel who have been implicated in gross violations of
human rights.

This Determination shall be transmitted to the Congress and published in the
Federal Register.

3/4/08
Date


John D. Negroponte
Deputy Secretary of State

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**MEMORANDUM OF JUSTIFICATION CONCERNING
CERTIFICATION FOR COUNTERNARCOTICS ASSISTANCE
FOR THE BOLIVIAN MILITARY**

Introduction

This memorandum supports the Deputy Secretary of State's certification pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Title II, P.L. 109-102), as carried forward and applied to FY 2007 funds pursuant to the Revised Continuing Appropriations Resolution, 2007 (P.L. 110-5), under the heading "Andean Counterdrug Initiative", which states:

"...Provided further, That funds appropriated under this heading that are made available for assistance for the Bolivian military may be made available for such purposes only if the Secretary of State certifies that the Bolivian military is respecting human rights, and civilian judicial authorities are investigating and prosecuting, with the military's cooperation, military personnel who have been implicated in gross violations of human rights..."

The Deputy Secretary is authorized to make this certification pursuant to State Department Delegation of Authority 245.

Summary

Since the last certification in December 2006, the Bolivian military has shown respect for human rights and cooperated with civilian judicial authorities. The hierarchy of the military has undertaken several steps to ensure respect for human rights. The vast majority of past cases are being investigated, albeit slowly, with the military's cooperation. The USG continues to encourage prosecution of all human rights cases, including those implicating members of the Bolivian military. U.S. officials and diplomatic personnel have met with members of the Bolivian government and military at the highest level for assurances that Bolivia will continue to take the necessary steps to ensure that the military cooperates with such prosecutions. >

Respect for Human Rights by the Bolivian Military

> Overall, incidents of human rights violations have decreased significantly in recent years, which is a reflection of the positive steps taken by the Bolivian military. In Chimore (Cochabamba Department), a focal point of U.S.-Bolivian

UNCLASSIFIED

UNCLASSIFIED

-2-

efforts to combat narco-trafficking, the number of human rights cases investigated by the Integrated Justice Center (IJC) dropped from a high of more than 200 cases reported in 2000 to a total of 12 cases reported in 2006 and 15 reported in 2007. The Center, which falls under the authority of the Ministry of Justice, found violations in just 3 of the 12 cases for which it completed investigations in 2007. Three cases were not completed by year's end. The Human Rights Ombudsman's representative in Cochabamba agrees that there has been a substantial drop in human rights violations over the last three to four years. The IJC attributes this decline to "consciousness-raising campaigns" targeting security forces.

An example of such consciousness-raising efforts are the human rights seminars for senior leaders and non-commissioned officers in the Bolivian military, which were supported by the Bolivian military's high command, funded by the U.S. Mil Group, and hosted in conjunction with the Bolivian Human Rights Ombudsman.

In 2007, there were six USG-funded human rights training seminars held for more than 350 non-commissioned officers. These covered rules of engagement in internal conflicts; when to use non-lethal force, and when the use of lethal force is appropriate. The seminars also discussed the military's code of ethics, its penal code, as well as individual and command responsibility for human rights violations. In 2006, the military held 12 seminars.

The military has incorporated respect for human rights throughout its doctrine and has also defined and published manuals on the appropriate use of force. Human rights training is now part of the curricula for Bolivia's military academies; all soldiers receive booklets on how to respond to internal conflicts. Conscripts are now provided with human rights material which explains their rights within the military.

The emphasis on training shows that the military takes seriously respect for human rights. Although it is difficult to prove a direct correlation between the decrease in human rights abuse cases and the increase in human rights seminars, the training curricula demonstrates Bolivia's commitment to respect and protect human rights. Some NGOs acknowledge that members of the security forces do not go into internal conflicts with the intent to harm or kill, but occasionally have fired on civilians due to a lack of training with regard to crowd control.

Evidence for the military's respect for civilians' human rights may be found in the restraint shown during the unrest in November 2007 in Sucre (Chuquisaca Department), when the ruling MAS party convoked a Constituent Assembly

UNCLASSIFIED

UNCLASSIFIED

-3-

session, excluding the opposition, at a military installation. Three demonstrators were killed and hundreds wounded, but there are no documented reports of military involvement in this incident. The Bolivian Senate censured the Minister of Government for the behavior of the police during the protests, and the police are under investigation; there is evidence the police carried high-caliber weapons and possibly used snipers.

Meanwhile, the military has prosecuted its own members for human rights abuses committed within its ranks, as in the case of the August 2005 death of military conscript Fredy Moises Kanqui. Kanqui was shot and killed on base by army officer Luis Fernando Perearo Ramos. Perearo was found guilty in a military court and sentenced to eight years in prison. Given that mistreatment of conscripts by military officers has long been a problem within the armed forces, the conviction and sentencing of Perearo is seen as a positive sign of overall respect for human rights.

Despite the evident commitment to respect human rights and associated positive trends, since the last certification in December 2006, there have been two notable allegations of human rights violations by the military during 2007. In April, security forces in Tarija allegedly shot and injured Herman Ruiz (who later died of his injuries) when he and others tried to storm a gas plant. On September 28, a student, Osmar Flores Torres, was killed and four others were wounded in a clash with security forces in Cochabamba when several hundred "normalistas" (students in training to be teachers) protested and threatened to disrupt a gas pipeline if their demands for a new school were not met. According to civilian, police, and military officials, security forces (200 police and 300 military) were carrying non-lethal weapons. The ballistics report indicates the caliber of the bullet that killed Flores is commonly used by the military, but the Cochabamba prosecutors assigned to the case have not yet identified the shooter.

Military Cooperation with Civilian Judicial Authorities

In the majority of cases, the military is cooperating with civilian judicial authorities' investigation and prosecution of alleged gross human rights violations. In nearly every case, however, progress in investigation and prosecution has been slow. This slow progress is due primarily to a broken civilian judicial system rather than failure on the part of the military to cooperate with investigations. In many cases, military involvement has not yet been definitively established due to protracted or faulty investigations.

UNCLASSIFIED

UNCLASSIFIED

-4-

In February 2003, four military officers were accused of murder during a period of civil unrest. The soldiers were tried by Bolivia's Permanent Tribunal of Military Justice in 2004 and acquitted. On appeal, the Constitutional Tribunal recognized an inherent conflict of interest and ruled that military personnel should be tried by civilian courts for human rights violations. In June 2005, the four military officers and their commanding officer voluntarily met with civilian prosecutors and reached an agreement with the District Prosecutor that the suspects would not be placed in preventive custody but would provide further testimony. Seemingly poor prosecution (there was ample photo and video evidence) and less than full cooperation from the military suspects and a police suspect in the case resulted in a delay of formal charges. Formal charges against five military suspects and the one police officer were announced in February 2007. There have been no developments since then.

In October 2003, five senior military officers were allegedly involved in the civil unrest known as the "Gas War" in which 59 people were killed and over 400 were injured. On April 11, 2006, five senior military officers -- former members of the High Command -- were formally charged in civilian courts with genocide, murder, conspiracy, and violating "individual guarantees" as well as the "expressed tenor of the Constitution." In 2007, senior military officials ordered soldiers involved in the events to cooperate with special prosecutor Milton Mendoza. (The blanket amnesty granted by former President Carlos Mesa to the social groups that participated in the violence has led many in the military to question whether they can receive a fair trial.) One important obstacle to progress with this case is the challenge of gathering testimony from approximately 2,000 witnesses.

On June 9, 2006, off-duty police officer and squatter Santiago Orocondo Arcvillca was shot while military and police forces tried to remove fellow squatters from privately-owned land outside the Oruro region. Orocondo's death is still under investigation; it is unclear whether security and police forces should be held accountable, but the caliber of the bullet that killed Orocondo was determined to be the type of bullet commonly used by the military. The investigatory phase can take up to 18 months. Although a judge has lifted the military's "secreto militar," which prevents military officers from being compelled to testify on what they learned during the performance of their official duties, civilian authorities within the Ministry of Defense have not responded to the prosecutor's request for information. NGOs familiar with the case and others have expressed some frustration with the Defense Ministry's lack of response. Meanwhile, in a meeting with embassy officials, the prosecutor stated that the prime suspect is a truck driver, not a member of the security forces. There is little information about why

UNCLASSIFIED

UNCLASSIFIED

-5-

the truck driver is considered the prime suspect, and there are questions about the prosecutor's handling of the case.

On July 5, 2006, naval officer Wilder Rene Blanco Mendoza was found dead in El Alto; his body showed signs of torture. Officer Blanco disappeared on June 16. The prime suspects were also military officers. The Bolivian lower house of Congress' "political social commission" has taken an interest in and is supporting the ongoing civilian investigation. Interested NGOs believe Wilder Blanco's death to be a common crime. There is now a third suspect (a civilian female), but the evidence appears thin, and the four theories surrounding Blanco's death (two of which do not involve the military) appear to be speculative. Embassy officers met with the lawyer representing Blanco's mother in September 2007. The lawyer makes a compelling case that Blanco's death was not a common crime. According to Blanco's mother, Blanco witnessed an illegal drug and arms shipment using a naval vessel, which could give military and civilians motive to cover up the case. The prosecutor for this case requested (and a judge approved) that the testimony from some of the prime suspects be dismissed. The case remains under investigation.

On September 29, 2006, 50-60 security force members reportedly were attacked without notice by approximately 200 armed coca growers while attempting to enter Carrasco National Park to eradicate coca, resulting in the deaths of coca growers Ramber Guzman Zembrana and Celestino Ricardis, as well as injuries to eight others. Early indications are that the initial use of force in this case was appropriate. Reports of the incident indicated that the coca growers took security force officials as hostages and beat them in captivity; some coca growers were also beaten while they were held by security forces. The coca growers were also found in possession of a large cache of weapons. The case remains in the preliminary investigative phase, primarily because of a lack of prosecutorial action. This inaction is likely the result of consistent turnover in the prosecutor's office responsible for the case; there have been four different prosecutors during 2007. In addition, neither the police nor the coca growers appear to be pushing for prosecution. At least five different prosecutors have been assigned to the district handling the case.

As mentioned earlier, there were two notable allegations of human rights violations committed by the Bolivian military in 2007. In April 2007, security forces shot and injured Herman Ruiz, who later died from his injuries. This case remains in the investigative phase. Frequent changes in prosecutors for this case complicate the investigation, but the military says it will cooperate with civilian prosecutors.

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