

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

RAFAEL ANTONIO GARAVITO-GARCIA,
a/k/a "El Viejo," and
GUSTAVO PEREZ-GARCIA,
a/k/a "Gato,"

Defendants.

-----X
:
:
SEALED
SUPERSEDING INDICTMENT

: S5 12 Cr. 839

-----X
BACKGROUND

Guinea Bissau

1. The Republic of Guinea Bissau is located on the west coast of Africa. It is situated between Guinea to the south and Senegal to the north, with a population of approximately 1,600,000. One of the poorest countries in the world, Guinea Bissau's legal economy is largely dependent on fishing and farming. In recent years, Guinea Bissau has become a major transshipment point for narcotics produced in South America, shipped across the Atlantic Ocean, and then sent on to various locations in Europe and elsewhere.

Fuerzas Armadas
Revolucionarias de Colombia

2. From its founding in or about 1964 to the present, the Fuerzas Armadas Revolucionarias de Colombia (the "FARC") has been dedicated to the violent overthrow of the Government of Colombia. To fund its activities, the FARC actively engages in narcotics trafficking and has evolved into the world's largest supplier of cocaine. The FARC is styled as a military group and is comprised of thousands of armed guerillas. To further its activities, the

FARC obtains automatic rifles, ammunition, machine guns, explosives, and surface-to-air missiles from various other entities. Over the years, the FARC has targeted United States persons and United States property interests. For example, the FARC leadership has ordered FARC members to kidnap and murder United States citizens. In recent years, and in response to law-enforcement pressure on traditional supply routes, narcotics traffickers based in South America have begun shipping drugs – including FARC-cocaine – across the Atlantic, to countries located on the west coast of Africa. From there, it is believed that the drugs can more readily be shipped on to other countries.

3. In October 1997, the United States Secretary of State designated the FARC as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act. The FARC remains so designated.

THE DEFENDANTS

4. At all times relevant to this Indictment, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” the defendant, a Colombian national, was a narcotics trafficker based in Colombia, who supplied cocaine to customers based in Guinea Bissau, among other locations.

5. At all times relevant to this Indictment, GUSTAVO PEREZ-GARCIA, a/k/a “Gato,” the defendant, a Colombian national, was a narcotics trafficking associate of RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” the defendant; PEREZ-GARCIA operated in Colombia.

MEANS AND METHODS OF THE CONSPIRACY

6. From at least in or about May 2012, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” and GUSTAVO PEREZ-GARCIA, a/k/a “Gato,” the defendants,

and four co-conspirators not named as defendants herein, CC-1, CC-2, CC-3, and CC-4, worked together to ship ton-quantities of FARC-owned cocaine across the Atlantic Ocean to Guinea Bissau, and then to store the cocaine in Guinea Bissau before its shipment to other locations, including the United States. In doing so, the defendants interacted with two individuals who purported at all times to be representatives and/or associates of the FARC; these two individuals were, in fact, confidential sources working for the Drug Enforcement Administration ("DEA") ("CS-1" and "CS-2"; collectively, the "Confidential Sources"). In addition, GARAVITO-GARCIA, CC-1, CC-2, CC-3, and CC-4, agreed to supply weapons, including surface-to-air missiles, to be used in the FARC's armed conflict with United States counter-narcotics forces in Colombia; in doing so, these defendants worked with the Confidential Sources.

7. RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, participated in the conspiracy by, among other things, introducing the Confidential Sources to CC-2 and CC-3. CC-2 and CC-3 were contacts in Guinea Bissau of GARAVITO-GARCIA and PEREZ-GARCIA who could facilitate the storage of FARC cocaine; the subsequent transport of that cocaine to the United States; and the purchase of weapons for use by the FARC, including surface-to-air missiles. CC-2 and CC-3 arranged for the Confidential Sources to meet with CC-1, a high-level official in the Guinea Bissau Military, and CC-4, who agreed: (1) to permit the receipt and storage of large quantities of FARC cocaine in Guinea Bissau; and (2) to arrange to purchase weapons for the FARC, by importing them into Guinea Bissau for the nominal use of the Guinea Bissau military; these weapons included surface-to-air missiles.

COUNT ONE

NARCOTERRORISM CONSPIRACY

The Grand Jury charges:

8. The allegations set forth in Paragraphs One through Seven above are incorporated by reference as if set forth fully herein.

9. From at least in or about May 2012, up to and including the date of the filing of this Indictment, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, at least one of whom will be first brought to and arrested in the Southern District of New York, and others known and unknown, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate Title 21, United States Code, Section 960a.

10. It was a part and an object of said conspiracy that RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, and others known and unknown, would and did engage in conduct that would be punishable under Title 21, United States Code, Section 841(a) if committed within the jurisdiction of the United States, to wit, the distribution, and possession with the intent to distribute, of five kilograms and more of mixtures and substances containing a detectable amount of cocaine, knowing and intending to provide, directly and indirectly, something of pecuniary value to a person and organization that has engaged and engages in terrorism and terrorist activity, to wit, the FARC (which has been designated by the United States Secretary of State as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act and remains so designated), and its members, operatives and associates, having knowledge that

such organization and persons have engaged and engage in terrorism and terrorist activity, which prohibited drug activity and terrorist offense violate the criminal laws of the United States, occur in and affect foreign commerce, and cause and are designed to cause death and serious bodily injury to nationals of the United States while the nationals are outside the United States, and substantial damage to the property of a legal entity organized under the laws of the United States while that property is outside of the United States, in violation of Section 960a of Title 21, United States Code.

Overt Acts

11. In furtherance of the conspiracy, and to effect the illegal object thereof, the following overt acts, among others, were committed:

a. On or about June 25, 2012, in a hotel in Brazil, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, met with the Confidential Sources. The Confidential Sources recorded the meeting. The meeting focused principally on the shipment of cocaine from South America to Guinea Bissau that would ultimately be shipped to, among other places, the United States.

b. On or about June 30, 2012, in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-2, and CC-3 met with the Confidential Sources. The Confidential Sources recorded the meeting. The meeting focused primarily on the shipment of cocaine from South America to Guinea Bissau, and the need to involve Guinea Bissau government officials in the operation. During the meeting, CC-2 and CC-3 agreed to assist in the distribution of FARC cocaine by facilitating the shipment of cocaine to Guinea Bissau inside loads of military uniforms, and by establishing a front company in Guinea

Bissau to export the cocaine from Guinea Bissau to the United States. In addition, CC-2 agreed to assist in obtaining weapons for the FARC by arranging a meeting, through CC-4, with CC-1.

c. Later that same day, on or about June 30, 2012, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-2, and CC-3 met again with the Confidential Sources. The Confidential Sources recorded the meeting. The meeting focused primarily on the shipment of cocaine to Guinea Bissau and, thereafter, the importation of a portion of the cocaine to the United States. During the meeting, CC-2 agreed to purchase some of the cocaine for 14,000 Euros per kilogram. In addition, both CC-2 and CC-3 advised that government officials in Guinea Bissau would retain a percentage of the cocaine shipped to Guinea Bissau and that they (CC-2 and CC-3) would discuss the exact amount with the relevant Guinea Bissau officials.

d. On or about July 2, 2012, in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-2, and CC-3 met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CC-2 instructed the Confidential Sources that they would be meeting that day with CC-1, who would provide land for a front company in Guinea Bissau that would store cocaine pending its transportation to the United States and Europe. In addition, CC-3 explained that for this service, Guinea Bissau government officials would, as a fee, expect 13% of the cocaine shipped to Guinea Bissau.

e. On or about July 2, 2012, at a military facility in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-1, and CC-4 met with the Confidential Sources. The Confidential Sources recorded the meeting. At the meeting, CS-1 explained that he had wanted to meet with CC-1 face-to-face to obtain CC-1's

approval to move forward with the plan to ship tons of cocaine into Guinea Bissau, using loads of military uniforms to mask the illicit nature of the shipment. CC-4 then explained to CC-1 that the Confidential Sources were also in Guinea Bissau to purchase weapons. In response, CC-1 acknowledged that the weapons procurement plan would go through him and the Guinea Bissau government; CC-1 stated, "It is through me that you can do that It is through the government and I am only an intermediary." CS-1 then confirmed how the weapons deal would work: half of the weapons ordered by the Guinea Bissau military would go to the FARC, and the other half would go to the Guinea Bissau military. CS-1 noted, that unlike a country such as Guinea Bissau, the FARC could not simply ask a weapons manufacturer to supply it with weapons. CS-1 described the FARC's need for surface-to-air missiles to combat United States helicopters that are used to destroy cocaine in Colombia. CS-1 suggested that a single plane could be used to deliver the cocaine to Guinea Bissau from Colombia, and then to return to Colombia, loaded in Guinea Bissau with weapons for the FARC. Towards the end of the meeting, CS-1 explained to CC-1 that once the cocaine from Colombia arrived in Guinea Bissau, the plan would be to utilize a front company to provide cover for the shipment of the cocaine out of Guinea Bissau to, among other places, the United States. CC-1 agreed with the proposal to ship FARC cocaine to Guinea Bissau for later distribution in the United States and to procure weapons for the FARC, including surface-to-air missiles. CC-1 also stated that he would discuss the plan with the President of Guinea Bissau. He stated, "The day after tomorrow, I'll talk to the President of the Republic."

f. Later that same day, on or about July 2, 2012, CC-2 met again with the Confidential Sources. CC-2 advised that, per instructions he received from CC-4, CC-1 required a payment of approximately 20,000 Euros, as proof that the Confidential Sources were serious about the proposed cocaine and weapons transactions and to begin doing business under

the protection of the Guinea Bissau government. Thereafter, CC-2 gave CS-1 two telephone numbers for an associate in Rotterdam, the Netherlands (the "Rotterdam Contact"), who would receive the approximately 20,000 Euros and make sure that the money was transferred to CC-1.

g. On or about July 2, 2012, in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-2, CC-3, and a member of the Guinea Bissau military ("Guinea Bissau Military Official-1") met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CC-2 said that Guinea Bissau Military Official-1 was appointed by CC-1 to be in charge of the weapons transaction. CC-2 further explained that Guinea Bissau Military Official-1 would handle the receipt of the shipment of cocaine from Colombia at the airport in Guinea Bissau. Guinea Bissau Military Official-1 stated that, when the cocaine arrived, the weapons would be ready to load onto a plane bound for Colombia.

h. On or about July 3, 2012, at a hotel in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, CC-2, CC-3, and CC-4 met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CC-2 introduced the Confidential Sources to a Guinea Bissau military representative ("Guinea Bissau Military Official-2") who, CC-2 explained would serve as a representative of CC-1. CS-1 explained the benefits of using Guinea Bissau as a transshipment point for cocaine obtained in South America and destined for the United States, and CC-3 described how the cocaine would be offloaded once it arrived in Guinea Bissau. Later in the meeting, CS-1 described the weapons to be supplied to the FARC to combat American forces in Colombia, including surface-to-air missiles and AK-47 assault rifles with grenade launchers.

i. On or about July 24, 2012, CC-2 spoke by telephone with CS-1.

CS-1 recorded the telephone call. During the conversation, CS-1 and CC-2 discussed the payment to the Rotterdam Contact of the approximately 20,000 Euros for CC-1. CS-1 and CC-2 also discussed the military uniforms that would serve as the cover load for the cocaine to be shipped to Guinea Bissau, and CC-2 agreed to send CS-1 an order form to facilitate the shipment of the military uniforms to Guinea Bissau.

j. On or about August 9, 2012, RAFAEL ANTONIO GARAVITO-

GARCIA, a/k/a "El Viejo," the defendant, spoke by telephone with the Confidential Sources. The Confidential Sources recorded the telephone call. During the conversation, GARAVITO-GARCIA said that a request from the Guinea Bissau government for the military uniforms had been signed.

k. On or about August 18, 2012, CC-2 spoke by telephone with CS-1.

CS-1 recorded the telephone call. During the conversation, CC-2 confirmed that he personally delivered approximately 20,000 Euros to CC-1 who, according to CC-2, was pleased with the payment and was interested in moving forward expeditiously, especially with the weapons deal.

l. On or about August 28, 2012, CC-2 conveyed a request for

military uniforms and related equipment, dated August 24, 2012, from the Prime Minister of Guinea Bissau. The request was sent to an email address that had been provided by the Confidential Sources.

m. On or about August 31, 2012, in Bogota, Colombia, RAFAEL

ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, met with CS-2. CS-2 recorded the meeting. During the meeting, PEREZ-GARCIA and GARAVITO-GARCIA agreed to facilitate the receipt of approximately

4,000 kilograms of cocaine from the FARC in Guinea Bissau, approximately 500 kilograms of which would later be sent to customers in the United States and Canada.

n. On or about September 22, 2012, in Guinea Bissau, CC-2 and CC-3 met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CC-2 explained that an office was being prepared for use for the front company that would ship cocaine from Guinea Bissau to the United States and Canada. CS-1 reminded CC-2 and CC-3 that the FARC wanted surface-to-air missiles, and CC-3 replied by acknowledging, in sum and substance, that he understood that the weapons were needed to attack United States helicopters in Colombia.

o. On or about September 23, 2012, in Guinea Bissau, CC-2 and another co-conspirator not named as a defendant herein ("CC-5"), met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CS-1 provided CC-5 with a list of the weapons that the FARC was requesting, which included, among other things, surface-to-air missiles, AK-47 assault rifles, and machine guns. CC-2 said that he and CC-5 would speak with the President and Prime Minister of Guinea Bissau about the weapons order for the FARC.

p. On or about September 25, 2012, in Guinea Bissau, CC-2 and CC-3 met with the Confidential Sources. The Confidential Sources recorded the meeting. During the meeting, CC-2 showed the Confidential Sources documentation for establishing the front company that would be used to send cocaine from Guinea Bissau to, among other places, the United States.

q. On or about September 26, 2012, in Guinea Bissau, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a

“Gato,” the defendants, CC-2, and CC-3 met with the Confidential Sources. During the meeting, CC-2 gave documentation referred to in paragraph p, above, to the Confidential Sources. In addition, PEREZ-GARCIA provided the Confidential Sources with a list of equipment that was needed to receive and transport the cocaine shipments in Guinea Bissau, including trucks with hidden compartments in them for secreting the cocaine.

(Title 21, United States Code, Section 960a.)

COUNT TWO

COCAINE IMPORATION CONSPIRACY

The Grand Jury further charges:

12. The allegations set forth in Paragraphs One through Seven above are incorporated by reference as if set forth fully herein.

13. From at least in or about May 2012, up to and including the date of the filing of this Indictment, in an offense committed outside the territorial jurisdiction of the United States, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” and GUSTAVO PEREZ-GARCIA, a/k/a “Gato,” the defendants, at least one of whom will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the narcotics laws of the United States.

14. It was a part and an object of the conspiracy that RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” and GUSTAVO PEREZ-GARCIA, a/k/a “Gato,” the defendants, and others known and unknown, would and did distribute a controlled substance, intending and knowing that such substance would be unlawfully imported into the United States

or into waters within a distance of 12 miles of the coast of the United States, in violation of Sections 812, 959(a), and 960(a)(3) of Title 21, United States Code.

15. The controlled substance involved in the offense was five kilograms and more of mixtures and substances containing a detectable amount of cocaine, in violation of Section 960(b)(1)(B) of Title 21, United States Code.

Overt Acts

16. In furtherance of the conspiracy and to effect the illegal object thereof, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, and others known and unknown, committed the overt acts set forth in Paragraphs 11a through 11q of this Indictment, which are fully incorporated by reference herein.

(Title 21, United States Code, Section 963.)

COUNT THREE

**CONSPIRACY TO PROVIDE MATERIAL SUPPORT
TO A FOREIGN TERRORIST ORGANIZATION**

The Grand Jury further charges:

17. The allegations set forth in Paragraphs One through Seven above are incorporated by reference as if set forth fully herein.

18. From in or about May 2012, up to and including the date of the filing of this Indictment, in an offense occurring in and affecting foreign commerce, and begun and committed outside of the jurisdiction of any particular State or district of the United States, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, at least one of whom will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and

knowingly did combine, conspire, confederate and agree together and with each other to provide weapons and other material support and resources to a foreign terrorist organization, namely, the FARC, which was designated as a foreign terrorist organization in October 1997 by the United States Secretary of State, re-designated as such on October 2, 2003 and October 11, 2005, and is currently designated as such as of the date of the filing of this Indictment, knowing that the FARC engages and has engaged in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), and that the FARC engages and has engaged in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

19. It was a part and an object of the conspiracy that RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, and others known and unknown, would and did agree to provide material support and resources, including, among other things, (i) providing logistical support for cocaine distribution for the FARC, (ii) facilitating the sale of FARC cocaine in the United States, and (iii) providing weapons to the FARC, knowing that the FARC was a designated foreign terrorist organization (as defined in Title 18, United States Code, Section 2339B(g)(6)), that the FARC had engaged and was engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), and that the FARC had engaged and was engaging in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), in violation of Title 18, United States Code, Section 2339B.

Overt Acts

20. In furtherance of the conspiracy and to effect the illegal object thereof, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, and others known and unknown, committed the overt acts set forth in Paragraphs 11a through 11q of this Indictment, which are fully incorporated by reference herein.

(Title 18, United States Code, Sections 2339B(a)(1), (d)(1) and 3238.)

COUNT FOUR

CONSPIRACY TO ACQUIRE AND TRANSFER ANTI-AIRCRAFT MISSILES

The Grand Jury further charges:

21. The allegations set forth in Paragraphs One through Seven above are incorporated by reference as if set forth fully herein.

22. From at least in or about May 2012, up to and including the date of the filing of this Indictment, in an offense begun and committed outside of the jurisdiction of any particular State or district of the United States, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to violate Section 2332g of Title 18, United States Code.

23. It was a part and an object of the conspiracy that RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, and others known and unknown, would and did produce, construct, otherwise acquire, transfer directly and indirectly, receive, possess, import, and use (1) an explosive and incendiary rocket and missile that is guided by a system

designed to enable the rocket and missile to seek and proceed toward energy radiated and reflected from an aircraft and toward an image locating an aircraft, and otherwise direct and guide the rocket and missile to an aircraft; (2) a device designed and intended to launch and guide said rocket and missile; and (3) a part and combination of parts designed and redesigned for use in assembling and fabricating said rocket, missile, and device; to wit, GARAVITO-GARCIA agreed with others to acquire and transfer surface-to-air missile systems to enable the FARC to attack United States aircraft in Colombia, in violation of Title 18, United States Code, Section 2332g.

Overt Acts

24. In furtherance of the conspiracy and to effect the illegal object thereof, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," the defendant, and others known and unknown, committed the overt acts set forth in Paragraphs 11a through 11q of this Indictment, which are fully incorporated by reference herein.

(Title 18, United States Code, Sections 2332g(a)(1), (b), (c), and 3238.)

FORFEITURE ALLEGATION

(As to Counts One and Two)

25. As a result of committing the controlled substance offenses alleged in Counts One and Two of this Indictment, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a "El Viejo," and GUSTAVO PEREZ-GARCIA, a/k/a "Gato," the defendants, shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853 and 970, any and all property constituting or derived from any proceeds that the defendants obtained directly or indirectly as a result of the offenses and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offenses alleged in Counts One

and Two of this Indictment, including, but not limited to, a sum of money representing the amount of proceeds obtained as a result of the offenses described in Counts One and Two of this Indictment.

Substitute Assets Provision

26. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided

without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Sections 853(p) and 970, to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 853 and 970.)

FORFEITURE ALLEGATION

(As to Counts Three and Four)

27. As a result of committing the terrorism offenses alleged in Counts Three and Four of this Indictment, RAFAEL ANTONIO GARAVITO-GARCIA, a/k/a “El Viejo,” the defendant, and GUSTAVO PEREZ-GARCIA, a/k/a “Gato,” the defendant, who is only charged in Count Three, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(G) and 2332b(g)(5), and Title 28, United States Code, Section 2461:

- a. all right, title, and interest in all assets, foreign and domestic;
- b. all right, title, and interest in all assets, foreign and domestic, affording a source of influence over the FARC;
- c. all right, title and interest in all assets, foreign and domestic, acquired and maintained with the intent and for the purpose of supporting, planning, conducting, and concealing a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; and
- d. all right, title and interest in all assets, foreign and domestic, derived from, involved in, and used and intended to be used to commit a Federal crime of terrorism against the United States, citizens and residents of the United States, and their property; including, but not limited to, a sum of money representing the value of the property described above as being subject to forfeiture.

Substitute Assets Provision

28. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 981, Title 21, United States Code, Sections 853(p), and Title 28, United States Code, Section 2461, to

seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981(a)(1)(G) and 2332b(g)(5); Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)

FOURFIFTEEN //
1-8-13

Preet Bharara
PREET BHARARA
United States Attorney

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v. -

**RAFAEL ANTONIO GARAVITO-GARCIA,
a/k/a "El Viejo," and
GUSTAVO PEREZ-GARCIA,
a/k/a "Gato,"**

Defendants.

SEALED SUPERSEDING INDICTMENT

S5 12 Cr. 839

(Title 21, United States Code, Sections 960a, 963 and
Title 18, United States Code, Sections 2339B and 2339g.)

PREET BHARARA
United States Attorney.

Foreperson
