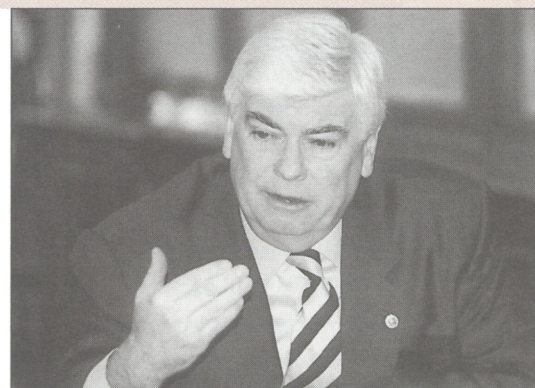


U.S. Drug Certification and the Search for a Multilateral Alternative

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In 1986, convinced that the executive branch should be paying more attention to the rising threat of international drug trafficking, Congress amended the Foreign Assistance Act to require the administration to certify annually whether or not drug producing and drug transit countries were cooperating fully with U.S. anti-drug efforts. Consequently, each year the executive branch is required to produce a list of major drug producing or drug-transit countries. Unless by March 1st the administration finds that an individual country is fully cooperating with U.S. anti-narcotics efforts, or is taking sufficient steps on its own to meet the terms of the 1988 UN drug control convention, the country is “decertified” and subject to mandatory sanctions, such as the withdrawal of most U.S. foreign assistance as well as U.S. opposition to loans these countries request from multilateral development banks. Alternately, sanctions against a country can be waived if it is deemed in the “vital national interest” of the United States.

Between January 30, 2001 and March 1, 2001, four different bills aimed at modifying drug certification were referred to the Senate Foreign Relations Committee. On April 5, 2001, in light of this legislative activity, the Latin American Program, together with the offices of Senators Christopher Dodd (D-CT) and Charles Hagel (R-NE), hosted a congressional briefing to explore alternatives to U.S. drug certification. The briefing took place just two days after the Senate Foreign Relations Committee voted unanimously, 17-0, to send to the Senate floor legislation introduced by Senator Dodd with Senators McCain, Hollings, Hagel, Boxer, Chafee, Lugar and Wellstone, that would sus-



U.S. Senator Christopher Dodd (D-CT)

pend the certification process for three years while multilateral alternatives are explored.

The objective of the April 5th briefing was to assess the utility of certification as a tool in the effort to reduce the flow of illegal narcotics, to evaluate the effect that drug certification has had on relations with nations in the Western hemisphere and to explore possible alternatives to the certification process. To examine these issues, the Latin American Program invited *Senator Christopher Dodd*; *Mario Chacón*, Deputy Chief of Mission, Embassy of Mexico; *Rodrigo Labardini*, Specialist on Counterdrug Issues, Embassy of Mexico; *Wendy Chamberlain*, Principal Deputy Assistant Secretary of State for International Narcotics and Law Enforcement Affairs; and *David Beall*, Executive Secretary, Inter-American Drug Abuse Control Commission (CICAD), Organization of American States to share their views with congressional staff members, policy makers and policy analysts. Cynthia J. Arnson, Assistant Director of the Latin American Program, served as moderator.

REGIONAL IMPLICATIONS OF DRUG CERTIFICATION

Opinions remain divided over the effect that drug certification has had on hemispheric rela-

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tions. Many in the United States government view the certification process as a key policy tool in the fight against drug trafficking, as it requires both the United States and its global partners to assess annually the progress of anti-narcotics efforts and because it sends a strong message that uncooperative countries will be held accountable. Conversely, drug certification is viewed by many others as an antagonistic policy towards precisely those nations whose cooperation is vital to curb the flow of drugs. Critics of drug certification, particularly abroad, contend that it violates the sovereignty of nations and strains diplomatic relations with nations who find it insulting that the United States, the largest consumer of illegal drugs, annually judges their progress on a problem that the United States has been unable to solve.

Senator Dodd has been opposed to the certification process for years, as he said it reinforces a circular process of nations blaming each other for the drug problem, instead of acknowledging that all share responsibility. "To put it bluntly," explained Dodd, "the drug problem is very expensive in human and financial terms...it is a tremendously costly problem that demands our attention, but more importantly, it demands cooperation. Without cooperation, we are doing nothing more than providing people with some wonderful campaign rhetoric about blaming someone else for a problem that we have not successfully addressed here at home very well."

The **Latin American Program** serves as a bridge between the United States and Latin America, encouraging a free flow of information and dialogue between the two regions. The Program also provides a nonpartisan forum for discussing Latin American and Caribbean issues in Washington, D.C., and for bringing these issues to the attention of opinion leaders and policy makers throughout the Western hemisphere. The Program sponsors major initiatives on Decentralization, Citizen Security, Comparative Peace Processes, Creating Community in the Americas, U.S.-Brazilian relations and U.S.-Mexican relations.

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Ambassador Chamberlain, on the other hand, praised the certification process for succeeding in its goal of focusing the attention of senior U.S. government officials and the international community on the threats posed by drug trafficking. Citing Department of State data, she reported that drug use in the United States has fallen since 1986, while consumption has increased in Latin America due to factors such as increased incomes throughout the region and globalization. Chamberlain went on to explain that since 1986, "the world community has begun to focus on the broader dangers and costs of drug abuse and drug trafficking. Countries everywhere now realize the danger and costs to their societies posed by the enormous wealth accumulated by traffickers." There is no doubt, according to Chamberlain, that this is due in large part to the certification process.

According to David Beall, the past few decades were marked by an absence of hemispheric cooperation to stop the flow of drugs. The general feeling in Latin America was that "the U.S. may have a problem, but we don't." This led these nations to take less seriously U.S. efforts aimed at combating drug trafficking and production in the region. This is no longer the case, Beall contended, due to an increase in the negative impacts of the drug trade felt in Latin American nations, such as crime, violence and corruption. The hemisphere has progressed from a "difference of concerns" to "shared concerns and shared threats." In this sense, Beall said that drug certification can be praised for encouraging cooperation. He was quick to point out, however, that cooperation should not be an end in itself, but rather a means to concrete results. Drug trafficking still poses a grave threat to the stability of the region.

AMENDING DRUG CERTIFICATION

While there have been efforts to amend the certification process over the years¹, Senator Dodd's Bill, S.219, is an important step towards reform. The final text of S.219 incorporates various aspects of the four other bills to amend drug certification that were referred to the Senate Foreign Relations Committee earlier this year. The bill passed by a vote of 17 to nothing, which is "unheard of in that committee in recent years," according to Dodd. He credited passage of the bill in large part to the cooperation and support of Senator Jesse Helms, who had a scheduled visit to Mexico days after the vote.

S.219 would provide a three year suspension of the certification process during which the United States could work with other nations to devise an alternative drug strategy focused on multilateral cooperation. During this period, the bill would not allow the United States to withhold foreign assistance as a consequence of a country's being named as a major drug producing or transit country. It would, however, allow the administration to withhold assistance to countries labeled as "failing demonstrably" to "make substantial efforts" to comply with international norms. In these cases the President would retain the authority to waive sanctions if he felt it was in the national security interests of the United States. An identical bill, H.R. 841, was introduced to the House International Relations Committee by Representative Silvestre Reyes (D-TX). The prospects for passage of the bills remain uncertain.

While maintaining that certification has been a positive tool, Ambassador Chamberlain asserted that the administration supports S.219 because it softens the aspects of the process that other countries find most offensive, such as placing all countries on a "Majors" list, judging them to be guilty before proven innocent for four months each year. Chamberlain acknowledged that "many countries continue to be unhappy with what they see as a unilateral U.S. process that passes judgement and penalties on both cooperating and delinquent governments alike." While insisting that in a sense U.S. assistance is a unilateral program, Chamberlain explained that the administration takes the point about "tarring all countries with a single brush," and as such would support reform efforts.

Mario Chacón suggested that no two countries have a better relationship than Mexico and the U.S. when it comes to fighting drugs. Rodrigo Labardini said that the Mexican Embassy has been monitoring closely the progress of S.219 and is pleased because the legislation addresses many of their prime concerns with the unilateral process. Conditions in the region are favorable for reform, Labardini noted. The new administrations of President Bush and President Fox "provide new conditions to solve old problems," he said. In a sense, this is the goal of the United States over the next three years; to create a new multilateral strategy to address an old, albeit dynamic, problem.



(left to right) Wendy Chamberlain and Cynthia Arnson

MULTILATERAL ALTERNATIVES: SHARED SOLUTIONS TO SHARED PROBLEMS

Senator Dodd made it clear from the outset that S.219, if passed into law, would serve only as a first step on the long road to developing a viable multilateral alternative drug strategy, explaining that "This bill only suspends all of these provisions. They will come right back into effect if we don't come up with an alternative in the next three years." The real goal is for the United States to work closely with the governments of the hemisphere to develop a multilateral strategy that Congress would support. Dodd encouraged the creation of a forum where every three or four months officials from the U.S., Mexico, Colombia and other nations could meet to discuss multilateral alternatives.

The mechanism that has received the most attention from those seeking to develop a multilateral evaluation process is the Organization of American States' Multilateral Evaluation Mechanism (MEM). The MEM is the product of a mandate at the Second Summit of the Americas in 1998, where it was determined by Heads of State that it would be useful to create an evaluation mechanism that promoted multilateral cooperation to combat drug trafficking and abuse. Under the MEM, thirty-four countries provide data in response to a standard questionnaire, which consists of indicators divided into four main categories: National Plans and Strategies; Reduction of Drug Production; Drug Abuse Prevention and Treatment; and Control Measures. In addition, each country submits a document illustrating the current state of the country's drug problem, as well as its greatest perceived suc-



cesses and challenges in combating drug trafficking and abuse. A Governmental Experts' Group (GEG), comprised of experts from the thirty-four member states, reviews the material submitted and drafts an evaluation of each nation's experience. There are no sanctions for poor performance.

While David Beall agreed that the MEM should be consulted, he clearly stated that it is by no means an alternative to the certification process and was not created as such. The MEM is beneficial, he explained, as it provides nations with a defined structure, ownership and participation in the process, as well as clear and relevant recommendations. Unlike U.S. certification, the MEM has no sanctions for poor performance on the grounds that thirty-three nations speaking to one nation is more influential than one nation unilaterally judging the actions of another.

While acknowledging that there is room for improvement of the certification process, Chamberlain stressed that we must be sure not to "throw the baby out with the bath water" and maintained that it is imperative that any new policy has clear enforcement mechanisms "to help ensure continued international counternarcotics cooperation." It is very unlikely that the administration would approve of an alternative mechanism that does not include sanctions, she said.

The Embassy of Mexico, Rodrigo Labardini explained, looks forward to working with the

United States and leaders from other Latin American countries in the search for a multilateral process that does not violate the principles of international law or the sovereignty of nations. Labardini praised the MEM as a model to observe.

CONCLUSION

While opinions remain divided, it appears that the line between supporters of certification and opponents of certification is blurring. Many in the government have come to acknowledge the role that drug certification has played in bringing to the attention of the international community the very real threats caused by international drug trafficking, while also acknowledging that the process has caused diplomatic strain between nations for whom cooperation is essential. Today even many of the staunchest supporters of drug certification, including Senator Joseph Biden(D-DE), who co-authored drug certification fifteen years ago, have publicly supported suspending the process in order to allow the administration to work with its partners to find a multilateral alternative. •

1. For more information, see the *CRS Report for Congress* entitled "Drug Certification Requirements and Proposed Congressional Modifications in 2001" by K. Larry Storrs. Updated March 27, 2001.

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