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Drug Certification of Mexico in 1998: Arguments For and Against Congressional Resolutions of Disapproval

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Summary

This report presents arguments for and against congressional resolutions which have been introduced to disapprove President Clinton's February 26, 1998 certification of Mexico as a fully cooperative country in efforts to control illicit narcotics.¹ These resolutions, which must be approved within 30 calendar days of the President's certification, would disapprove the President's certification and require the withholding of assistance and support from Mexico (S.J.Res. 42), or they would disapprove the President's certification, but would permit him to avoid withholding of assistance if he determined that vital national interests required such assistance (S.J.Res. 43, H.J.Res. 114). Arguments for such resolutions include that Mexico's performance does not justify certification, that Mexico has failed to take adequate action against corruption and drug traffickers, and that such action would send a message of seriousness that would encourage greater Mexican efforts. Arguments against such resolutions include that the action would be seen as a unilateral and punitive approach, that disapproval of Mexico might have negative U.S. effects and might fail to encourage greater Mexican cooperation in counter-narcotics efforts, and that disapproval may negatively affect other areas of bilateral cooperation.

Introduction

¹ This report draws from *Drug Certification of Mexico in 1997: Arguments For and Against Resolutions of Disapproval*, CRS Report 97-329, March 8, 1997, by (name redacted). For tracking legislative action, see *Mexican Drug Certification Issues: U.S. Congressional Action, 1986-1998*, CRS Report 98-174 F, March 6, 1998; and *Mexico-U.S. Relations: Issues for the 105th Congress*, CRS Issue Brief 97028, by (name redacted). For details on the certification process, see *Narcotics Certification and Mexico: Questions and Answers*, CRS Report 97-320 F, March 6, 1997, by (name redacted), Jonathan Sanford, and (name redacted). For details on Mexican counter-narcotics efforts in Zedillo's presidency, see *Mexico's Counter-Narcotics Efforts Under Zedillo*, CRS Report 98-161 F, March 4, 1998, by (name redacted).

Responding to the requirements of Section 490 of the Foreign Assistance Act of 1961 (P.L. 87-195), as amended, President Clinton certified, on February 26, 1998, that Mexico had fully cooperated with the United States in drug control efforts in 1997. Several Members of Congress disagreed with the President's determination, and, in accordance with congressional review procedures in the legislation, introduced resolutions to disapprove the President's action. Unless the resolution permits the President to waive action, the passage of a congressional resolution of disapproval would require the withholding of foreign assistance and support for multilateral development bank loans for the country.

Arguments for Passage of a Resolution of Disapproval

1. Mexico's Performance Does Not Demonstrate Fully Supportive Efforts to Control Drug Trafficking. Mexico continues to be a major transit point for cocaine entering the United States from South America, and a major source country for heroin and marijuana, although the 1998 State Department International Narcotics Control Strategy Report (INCSR) shows that potential yield of opium (for heroin) and marijuana has declined considerably. Recent INCSR reports have not estimated the portion of drugs coming through or from Mexico. Mexican trafficking organizations dominate the manufacture and distribution of methamphetamine, and are heavily involved in money-laundering activities. According to the 1998 INCSR report, Mexican cartels have assumed a larger role in the wholesale distribution of cocaine in the United States, and seizures of heroin, methamphetamine and ephedrine declined significantly, as did seizures of drug labs. Total drug arrests in 1997 were less than in 1996, and Mexico had limited success against the major traffickers. Eradication of opium remained about the same, but eradication of marijuana declined. Despite numerous requests, Mexico has extradited very few, if any, Mexican citizens to the United States on drug-related charges. The bilateral Border Task Forces have been crippled by inadequate funding by Mexico, the shortage of fully screened Mexican agents, and the refusal of Drug Enforcement Administration (DEA) agents to participate so long as Mexico denies them permission to carry firearms for their own protection.

2. Mexico Has Failed to Take Adequate Action Against Corruption and Major Drug Traffickers. Over the years, Mexico has failed to adequately prosecute high-level officials charged with corruption and drug trafficking crimes, although some secondary figures in the drug cartels have been arrested. Among the major cases linked with corruption and drug trafficking in the press are the following: (1) **Raul Salinas de Gortari** (the brother of former President Carlos Salinas de Gortari) who was charged in Mexico in 1995 on murder and illicit enrichment charges, and who is being investigated by Swiss authorities after \$120 million in his bank accounts was frozen; (2) **Mario Ruiz Massieu**, the former Deputy Attorney General, who has resisted extradition from the United States to Mexico, and whose U.S. bank accounts were seized when a Houston court found a link to drug trafficking; (3) **General Jesus Gutierrez Rebollo**, the former head of Mexico's main anti-drug fighting organization, the National Drug Control Institute (INCD), who, with 40 Mexican military officers, was charged in February 1997, with connections to drug traffickers; (4) **General Alfredo Navarro Lara**, who was arrested in March 1997, for making bribes for the Arellano-Feliz trafficking organization; (5) members of a **U.S.-trained elite airborne anti-drug unit** who were arrested in

September 1997, and charged with using their planes to smuggle cocaine from the Guatemalan border to Mexico City; and (6) the newly appointed **Government Minister Labastida** who, according to press reports, had been characterized in CIA reports as tolerating drug dealers activities since serving as Governor of Sinaloa, although the Mexican government strongly denied the charges, and U.S. officials expressed continued confidence in him.² While prosecutors increased the conviction rate against major traffickers in 1997, there were some significant setbacks, such as the release of drug lord Humberto Garcia Abrego and the reduction in sentence for drug lord Rafael Caro Quintero.

3. Passage of a Resolution of Disapproval Would Send a Message and Encourage the Government to Take More Forceful Actions. The mere threat that Mexico would not be fully certified seems to have encouraged Mexican cooperation in drug control efforts. In 1996, as the decision on certification approached, Mexico arrested and expelled drug lord Juan Garcia Abrego to the United States, and it agreed to create the bilateral High Level Contact Group (HLCG) on Narcotics Control. In 1997, as the certification decision approached, Mexico promised greater cooperation in extraditing drug lords, shutting down money-laundering operations, and attacking corruption in government. In 1998, as certification approached, the countries released the United States-Mexico Binational Drug Strategy, although the strategy had been underway for some time. Given the seeming effectiveness of the threat of less than full certification, it could be argued that congressional disapproval, even if subsequently waived by the President, could stimulate additional cooperation and a greater determination to attack corruption.

Arguments Against Passage of a Resolution of Disapproval

1. Passage Would Be Seen as a Unilateral, Punitive and Confrontational Approach, Rather than a Bilateral, Cooperative Approach to Relations with Mexico. Passage of a resolution of disapproval could be seen as placing blame solely upon Mexico for the flow of drugs to the United States. Mexico and other producer and transit countries point out that the drug traffic is fueled by the tremendous profits associated with the continuing demand from the United States. If the United States could reduce the demand for drugs and eliminate the corruption associated with the distribution of drugs in the United States, the flow from producer and transit countries would diminish, they argue.

Passage of a resolution of disapproval could be seen as neglecting Mexican efforts to control drug trafficking, often with considerable loss of life by Mexican law enforcement and military personnel. Since President Zedillo's inauguration in December 1994, there has been a campaign to reform the judicial system and to create new anti-drug agencies with specially screened agents. Legislation was enacted to criminalize money laundering, to establish some controls on chemical diversion, and to permit use of modern investigative techniques (electronic surveillance, witness protection) against organized

² See the following front page articles by Bill Gertz in the *Washington Times*: CIA Links Mexico's Interior Minister to Drug Lords (Feb. 5, 1998); Mexico Denounces CIA Drugs Report (Feb. 7, 1998); and U.S. Still Works with Mexico on Drugs (Feb. 12, 1998).

crime. In 1997, Mexican seizures of cocaine increased 48%, seizures of opium gum increased 75%, and the conviction rate against drug traffickers increased as well.

In terms of U.S.-Mexico cooperation, in the last two years Mexico signed a Financial Information Exchange Agreement and an Asset Sharing Agreement, it significantly increased military-to-military cooperation, accepted U.S. counter-narcotics assistance, cooperated in the establishment of Border Task Forces, and extradited Mexican citizens to the United States for the first time. Most importantly, it held a whole range of bilateral consultations under the rubric of the High Level Contact Group (HLCG) on Narcotics Control leading to a joint assessment and strategy for controlling drug trafficking. Passage of a resolution of disapproval of Mexico might put some of these cooperative efforts in jeopardy. It could also put a serious damper on President Clinton's trip to Chile, in mid-April 1998, for the second Summit of the Americas, which is expected to launch negotiations for a Free Trade Area of the Americas (FTAA), and to seek to strengthen multilateral drug control efforts under the rubric of the Organization of American States' Inter-American Drug Abuse Control Commission (CICAD)

2. Imposition of Sanctions Following Passage of a Resolution of Disapproval Might Have Negative U.S. Effects and Might Not Work to Encourage Mexican Cooperation on Counter-Narcotics Efforts. While the loss of U.S. aid and other benefits could be seen as harmful, the amount of standard foreign assistance is limited (\$15.38 million in FY1998), and much of it is for programs the United States may wish to support. These include programs for stabilizing population growth, health (HIV/AIDS prevention), environmentally sound use of resources, legal reforms related to NAFTA, and programs to strengthen democracy. U.S. votes against loans to Mexico in multilateral institutions could be damaging if the votes had the effect of denying Mexico access to credits from the World Bank and the Inter-American Development Bank, but that outcome would not be certain, given the United States' minority voting power in each institution.

If financing for U.S. exports to Mexico through the Export-Import Bank or under the Arms Export Control Act were to be barred with passage of a resolution of disapproval, there could be some reduction in U.S. exports, with consequences in the United States and Mexico, particularly in border regions. Mexico is the United States' third most important trading partner overall, and in 1997 became the second most important country in terms of U.S. exports. Considering exports and imports, the two countries had a trade turnover of over \$158 billion in 1997, so a loss of trade would have negative consequences on both sides of the border.

Given Mexico's past history with the United States and its determination to maintain sovereignty in domestic and foreign affairs, it could not be assumed that Mexico would comply with U.S. wishes if sanctions were applied. This history includes: the loss of Texas and the U.S. southwest states in the 19th century; the suspicions over U.S. business domination that emerged in the Mexican Revolution of 1910 and led to the expropriation of U.S. oil companies in the 1930s; Mexican diplomatic opposition to U.S. policies toward Cuba and Central America from the 1960s to the 1980s; and Mexican restrictions on U.S. trade and investment until the 1980s.

Mexico has taken steps to control drug trafficking and to enact political and economic reforms because it finds these measures to be in its own self interest. The

positive steps in U.S.-Mexican drug control efforts mentioned above took place during the Salinas and Zedillo years when the countries were cooperating on a range of issues, not when the United States threatened to impose sanctions. If Mexico feels that the United States is being punitive, it may cease to cooperate with the United States in the drug trafficking area, with results that might be less satisfactory than the current efforts. Decertification of Mexico might even weaken President Zedillo's position and effectively strengthen the drug traffickers or those less interested in routing out drug-related corruption.

3. Passage of a Resolution of Disapproval May Negatively Affect Other Areas of Cooperation if Sanctions Backfire. Since Mexico and the United States cooperate on a whole range of issues, if Mexico were to decide to reduce or end cooperation as a result of legislatively imposed sanctions, this decision could have negative consequences in a number of areas, other than the drug control area.

- In the economic reform and trade area, Mexico has reduced the size of its government through privatization and macroeconomic reforms, and it has opened the economy to trade and investment through NAFTA and other measures. Despite the 1994-1995 financial crisis, Mexico adhered to NAFTA and continued the austere measures to restore the economy. The economic reforms and the NAFTA agreement give the United States access to an important market and provide opportunities for investment and the sale of products to the government.
- In the immigration area, Mexico has cooperated with the United States in a number of ways. Acting through the Binational Commission working group meetings, Mexico has worked to curtail criminal trafficking in migrants and to ensure safe operation of border bridges and crossings. Both delegations committed to strengthen border liaison mechanisms and to conduct joint research on Mexican-U.S. migration. During President Zedillo's visit to Washington in October 1995, the two presidents announced a pilot project in the San Diego area under which habitual illegal border crossers will be returned to their home towns in the interior of Mexico, rather than at the border. In November 1997, the two countries issued a Binational Study on Migration that found that unauthorized migration carries costs for both countries and makes migrants vulnerable to exploitation.
- With regard to border affairs, the United States and Mexico cooperate on numerous environmental and law enforcement issues. Among the most important are the following: Cooperation in the North American Commission on Environmental Cooperation established in the environmental side agreement to NAFTA, along with cooperation in the two other institutions that focus particularly on the border region -- the Border Environmental Cooperation Commission (BECC) which generates projects, and the North American Development Bank (NADBank) which funds the projects. The countries also cooperate on water issues through the International Boundary and Water Commission (IBWC), and on environmental projects through the 1983 La Paz Agreement.
- Cooperation on labor rights issues through the North American Commission for Labor Cooperation established in the labor side agreement to NAFTA.

- Cooperation on foreign policy issues, such as (1) peaceful transitions in Haiti and Guatemala, (2) resolution of the Peru-Ecuador conflict, (3) implementation of the agenda of the Summit of the Americas, and (4) efforts to negotiate a Free Trade Area of the Americas (FTAA).

Without the cooperation of Mexico in these and other areas, there is a serious limit to the efforts that the United States can pursue to advance these goals. Cooperation through dialogue and discussion, rather than sanctions, seems likely to produce greater results in relations with Mexico, and to send a message throughout the hemisphere that the United States is pursuing a cooperative rather than a punitive approach toward countries in the region.

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