



International Drug Control Policy

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Summary

This report provides an overview of U.S. international drug control policy. It describes major international counternarcotics initiatives and evaluates the broad array of U.S. drug control policy tools currently in use. The report also considers alternative counterdrug policy approaches to current initiatives and raises several counterdrug policy issues and considerations for policy makers.

Illegal drugs refer to narcotic, psychotropic, and related substances whose production, sale, and use are restricted by domestic law and international drug control agreements. Common illegal drugs include cannabis, cocaine, opiates, and synthetic drugs. International trade in these drugs represents a lucrative and what at times seems to be an intractable criminal enterprise, affecting countries worldwide and generating between \$100 billion and \$1 trillion in illicit profits per year. Revenue from the illegal drug industry provides international drug trafficking organizations with the resources to evade and compete with law enforcement officials; penetrate legitimate economic structures through money laundering; and, in some instances, challenge the authority of national governments. Despite apparent national resolve to address international narcotics trafficking, tensions appear at times between U.S. international drug control policy and other U.S. foreign policy goals and concerns. Pursuit of international drug control policies can sometimes negatively affect national interests by exacerbating political instability and economic dislocation in countries where narcotics production is entrenched economically and socially. Drug supply interdiction programs and U.S. systems to facilitate the international movement of legitimate goods, people, and wealth also are often at odds. The high priority of terrorism in U.S. foreign policy has resulted in increased attention to links between drug and terror groups; a challenge facing policy makers, however, is how to avoid diverting counterdrug resources for anti-terror ends in areas of potentially low payoff.

Congress is involved in all aspects of U.S. international drug control policy, regularly appropriating funds for counterdrug initiatives, conducting oversight activities on federal counterdrug programs, and legislating changes to agency authorities and other counterdrug policies. Major U.S. programs to combat drug production and trafficking exist in the Andean region of South America, Afghanistan, and Mexico. Through its appropriations and federal oversight responsibilities, the 111th Congress may choose to continue tackling several emerging policy issues concerning U.S. international drug control policy, including whether to appropriate more funding for the Mérida Initiative, how to address the growing use of West Africa as a drug transit point to Europe and other destinations, and the role of the Department of Defense in counterdrug foreign assistance. Active legislation related to international counternarcotics includes H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010; H.R. 3326, the Department of Defense Appropriations Act, 2010; and H.R. 3081, Making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2010, and for other purposes.

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Introduction

Illegal drugs refer to narcotic, psychotropic, and related substances produced, traded, or used in contravention to domestic law or international drug control agreements.¹ Narcotic drugs include cannabis, cannabis resin, coca leaf, cocaine, heroin, and opium. Psychotropic substances include ecstasy,² LSD,³ amphetamine, and methamphetamine. Examples of other related substances include precursor chemicals used to make narcotic drugs and psychotropic substances—such as ephedrine and pseudoephedrine—which are used to make methamphetamine, and potassium permanganate, which is used to make cocaine. With few exceptions, production and sale of controlled substances is legally permitted only if used for medical and scientific purposes.

Illegal drug use generates a lucrative illegal drug trade that affects countries worldwide. Estimates of the global proceeds from illegal drugs vary significantly, ranging from \$100 billion to more than \$1 trillion per year.⁴ A substantial portion of profits generated by illegal drug trade—as much as 70%—are laundered and invested through foreign banks and institutions.⁵ This transnational illegal drug industry also provides international drug trafficking organizations with resources to evade and compete with law enforcement agencies; penetrate legitimate economic structures; and, in some instances, challenge the authority of national governments.

Although international drug trafficking has been an issue of foreign policy concern for more than a century and a subject of longstanding multilateral policy commitment, tensions appear at times between U.S. foreign drug policy and policy approaches advocated by independent observers and some foreign countries. Illegal drugs first emerged in U.S. policy debates as a national security threat in the late 1960s—and has been perceived mainly through a security and law enforcement lens, among successive Administrations as well as Congresses, ever since. In a 1971 press conference, then-President Richard Nixon identified illicit drugs as America’s “public enemy number one.”⁶ That same year, Congress enacted a chapter into the Foreign Assistance Act of 1961 to define U.S. policies and authorities relating to international narcotics control.⁷ In 1986, President Ronald Reagan declared narcotics trafficking a threat to U.S. national security.⁸ That

¹ This report expands and replaces CRS Report RL33582, *International Drug Trade and U.S. Foreign Policy*, by Raphael F. Perl.

² Ecstasy is the street name for MDMA (3,4-methylenedioxy-N-methylamphetamine).

³ LSD is the street name for lysergic acid diethylamide.

⁴ The most recent international effort to estimate the value of the illicit drug market was undertaken by the U.N. Office on Drugs and Crime (UNODC), which estimated that for CY2003, the international drug market was valued at \$322 billion at the retail level. Subsequent UNODC reports do not give global estimates on proceeds. Debate continues to surround methodological limitations to drug market estimates. See UNODC, *2005 World Drug Report*, “Estimating the Value of Illicit Drug Markets,” at http://www.unodc.org/pdf/WDR_2005/volume_1_chap2.pdf. See Francisco E. Thoumi, “The Numbers Game: Let’s All Guess the Size of the Illegal Drug Industry!” *Journal of Drug Issues*, Vol. 35, No. 1, Winter 2005, pp. 185-200.

⁵ U.N. International Drug Control Programme (UNDCP), “Economic and Social Consequences of Drug Abuse and Illicit Trafficking,” Technical Series No. 6, 1998, at http://www.unodc.org/pdf/technical_series_1998-01-01_1.pdf.

⁶ Richard Nixon, “Remarks about an Intensified Program for Drug Abuse Prevention and Control,” June 17, 1971. Briefing transcript at John T. Woolley and Gerhard Peters, *The American Presidency Project*, at <http://www.presidency.ucsb.edu/WS/?pid=3047>.

⁷ P.L. 92-226, Section 109, added Ch. 8, International Narcotics Control, to the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2291 et seq.).

⁸ Ronald Reagan, *National Security Decision Directive 221*, “Narcotics and National Security,” April 8, 1986, partially declassified on November 7, 1995, redacted version available at <http://www.fas.org/irp/offdocs/nsdd/nsdd-221.htm>.

same year, Congress expanded drug interdiction authorities and criminal penalties for drug trafficking.⁹ Successive administrations have continued to feature combating the illicit drug trade prominently among U.S. national security objectives. At the same time, Congress continues to exercise its oversight responsibilities on U.S. counternarcotics policy and appropriate funds for international counternarcotics programs.

Several factors contribute to the argument that international drug trade continues to be best addressed as a security and law enforcement policy issue, while other considerations support claims that illicit drugs are better approached through methods of public health harm reduction and economic and social development. On the one hand, many major hot spots of drug trafficking around the world are mired by one or a combination of related and often interlinked security concerns, including regional conflict, transnational crime, international terrorism, and violence. At the most extreme, drug trafficking organizations may essentially compete with a state government for power in the region, whether by force or through extensive official corruption. In this manner, some observers have questioned whether drug trafficking has rendered countries, such as Afghanistan, Guatemala, and Guinea-Bissau, into narco-states.¹⁰ The confluence of political and security threats surrounding international drug trafficking, many analysts argue, necessitates a policy posture that emphasizes the disruption and dismantlement of the criminal actors and organizations involved in all aspects of the drug trade.

At the same time, however, other observers argue that security and law enforcement approaches to international drug control have failed to achieve notable successes in “eliminating or reducing significantly” the supply of illicit drugs—a goal the United Nations committed in 1998 to achieve by 2008 (and in 2009, recommitted to achieve by 2019).¹¹ Supporting this position in its most recent annual report of the world drug situation, the UN Office on Drugs and Crime (UNODC) argues that international concern with “public security” during the past decade has overshadowed other key tenets of drug control policy, including public health and drug demand reduction.¹² Numerous international non-governmental organizations (NGOs) also argue that greater emphasis should be placed on policies that emphasize harm reduction efforts to address and prevent the adverse health and social consequences; programs to promote treatment, rehabilitation, and social re-integration for drug users; as well as sustainable and comprehensive alternative development projects.¹³

An emerging block of observers, mainly but not limited to observers and policymakers from Latin America, is calling for the consideration of alternatives to the prohibitionist international drug control regime currently in place. Their recommendations broadly support shifts in drug policy similar to how many European countries approach illegal drugs, with an emphasis on

⁹ Anti-Drug Abuse Act of 1986 (P.L. 99-570) U.S.C. 801 note.

¹⁰ See for example: Thomas Schweich, “Is Afghanistan a Narco-State?” *The New York Times*, July 27, 2008; Frank Smyth, “The Untouchable Narco-State,” *The Texas Observer*, November 18, 2005; and Ed Vulliamy, “How a Tiny West African Country became the World’s First Narco State,” *The Observer*, March 9, 2008.

¹¹ p. 215, UNODC, *2008 World Drug Report*, June 2008, available at <http://daccessdds.un.org/doc/UNDOC/GEN/N98/775/09/PDF/N9877509.pdf?OpenElement>; UN Commission on Drugs, Report on the 52nd Session, E/2009/28, E/CN.7/2009/12 (2009), p. 44.

¹² *Ibid.*, p. 217.

¹³ See for example Vienna NGO Committee on Narcotic Drugs, “Beyond 2008 Declaration,” July 9, 2008; available at [http://www.vngoc.org/images/uploads/file/BEYOND%202008%20DECLARATION%20AND%20RESOLUTIONS%20FINAL\(1\).pdf](http://www.vngoc.org/images/uploads/file/BEYOND%202008%20DECLARATION%20AND%20RESOLUTIONS%20FINAL(1).pdf); Latin American Commission on Drugs and Democracy, “Drugs and Democracy: Toward a Paradigm Shift,” April 2009.

neutralizing the health impacts of drug users and focusing on harm-reduction techniques. In February 2009, a non-governmental, independent study group called the Latin American Commission on Drugs and Democracy—co-chaired by former presidents from Brazil, Colombia, and Mexico—concluded that the current international drug control model has failed. In May 2009, former Mexican President Vicente Fox publicly commented that it is time to consider alternative drug policies, including legalizing certain drugs.¹⁴ In August 2009, to add to the existing collection of countries that variously support some amount of drug decriminalization, a new law in Mexico went into effect, decriminalizing “personal use” amounts of marijuana, heroin, cocaine, methamphetamine, and other internationally sanctioned drugs.¹⁵

While many critics remain against changes to the current drug control policy status quo, advocates for a reevaluation of current drug policies appear to be gaining ground.¹⁶ Antonio Maria Costa, the UNODC’s executive director, acknowledges in the UNODC’s most recent annual World Drug Report, released June 2009, that a growing number of observers have concluded that the current international drug control policy “is not working.” Although arguing against drug legalization, Costa nevertheless supports a new look at, and possible rebalancing of, the current mix of international drug policies.¹⁷

Such calls for a new look at international drug policies are being advocated from an increasingly growing sector of the policy community, including the 111th Congress and the Obama Administration.¹⁸ It remains unclear whether recent policy debates can translate into lasting improvements to reduce the production, trafficking, use, and consequences of illegal drug trade. However, changes could affect a range of foreign policy considerations for the United States, including foreign aid reform, counterinsurgency strategy (particularly in Afghanistan), the distribution of domestic and international drug control funding, and the relative balance of civilian, law enforcement, and military roles in anti-drug efforts.

In 2009, the 111th Congress may choose to continue its oversight and assessment of existing U.S. international drug policy. In this process, several questions may emerge:

- In what ways are counternarcotics strategies facilitating or driving recent increases in drug-related violence? Are spikes in drug-related violence common or inevitable consequences of heightened counternarcotics operations? In what ways might governments mitigate or dampen current and potentially future increases in drug-related violence?

¹⁴ Arthur Brice, “Former Mexican President Calls for Legalizing Marijuana,” CNN.com, May 13, 2009.

¹⁵ “Mexico Legalizes Drug Possession,” Associated Press, August 21, 2009.

¹⁶ In support of current prohibitionist policies, see “Drug Legalization Would Be ‘Catastrophe’, Says Ex-White House Drug Spokesman Bob Weiner; Drugs Have Not ‘Won the War’; Op-ed Letter in New York Times Today,” PR Newswire, June 18, 2009; Bob Weiner, “Time to End Prohibition for Drugs?” *New York Times*, op-ed, June 18, 2009; “How to Stop the Drug Wars,” *The Economist*, March 5, 2009; John P. Walters, “Drug Legalization Isn’t the Answer,” *Wall Street Journal*, op-ed, March 6, 2009.

¹⁷ UNODC, *World Drug Report*, 2009; see also “UN Drug Czar Gives up on Drug Free World, Admits New Strategy is Needed,” *States News Service*, June 24, 2009.

¹⁸ See for example H.R. 2134, Western Hemisphere Drug Policy Commission Act of 2009; Rafael Pardo and Juan Gabriel Aires, “Before Washington Ramps Up Yet another Losing War on Drugs, Why Not Let A Commission Construct a Better Policy,” *Christian Science Monitor*, op-ed, August 11, 2009; Nicholas D. Kristof, “Drugs Won the War,” *New York Times*, op-ed, June 14, 2009.

- How do counternarcotics policies interact with counterterrorism, counterinsurgency, and anti-money laundering priorities, particularly in countries such as Afghanistan, where the U.S. government may have an interest in all three issues?
- What role should the U.S. military play in providing foreign counternarcotics assistance?
- How should U.S. policymakers weigh the benefits of aerial eradication as a counternarcotics policy tool with the social, financial, and political costs it may incur?
- To what extent is it a common phenomenon that human rights are violated over the course of drug-related investigations and operations? In what ways might human rights violations undermine or threaten drug control policies?
- To what extent should U.S. counternarcotics policy take into account economic development, social development, and health and harm reduction programs and are such efforts sufficiently coordinated with international and bilateral partners?
- How do counternarcotics policies interact with related foreign policy goals of anti-corruption, justice sector reform, and improving the rule of law?
- How might international regulatory and legal constraints limit the reach of U.S. counternarcotics policy and potentially offer drug syndicates foreign safe havens? And what legislative options might be available to prevent such legal safe havens from existing?

This report provides an overview of U.S. international drug control policy and is divided into four main parts. First, it outlines and evaluates major U.S. drug control policy initiatives; second, it assesses major international drug control tools used by the United States; third, it identifies possible legislative issues for the 111th Congress; and, finally, it considers alternative counterdrug policy approaches.

U.S. National Drug Control Strategy

U.S. involvement in international counterdrug policy rests on the central premise that helping foreign governments combat the illegal drug trade abroad will ultimately curb illegal drug availability and use in the United States. To this end, the current Administration maintains the goal of reducing, and ultimately cutting off, the international flow of illegal drugs into the United States.

Since 1999, successive Administrations have developed an annual National Drug Control Strategy, which describes the total budget for drug control programs and outlines U.S. strategic goals for stemming drug supply and demand.¹⁹ The international component of the Administration's 2009 National Drug Control Strategy centers on the goal of disrupting the

¹⁹ Congress requires that the White House submit to Congress a National Drug Control Strategy report each year. This requirement was first established by Section 706 of the Office of National Drug Control Policy Reauthorization Act of 1998 (Division C, Title VII, P.L. 105-277; 21 U.S.C. 1705) and has been subsequently amended. The current National Drug Control Strategy is available at <http://www.whitehousedrugpolicy.gov/publications/policy/ndcs08/index.html>.

market for illegal drugs through foreign counternarcotics assistance, targeted economic sanctions against drug traffickers, diplomatic efforts, and international law enforcement investigations.

Funding

For FY2010, the Administration has requested approximately \$15.1 billion for federal drug control programs (see **Table 1**).²⁰ Of this, 41%, or \$6.2 billion, is requested for international and interdiction programs.

Table 1. U.S. Drug Control Funding
(in U.S. \$ millions)

Activities ^a	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009 Enact.	FY2010 Req.
International	1,084.5	1,105.1	1,159.3	1,393.3	1,434.5	2,050.2	1,824.6	2,147.5	2,160.2
Interdiction	1,913.7	2,147.5	2,534.1	2,928.7	3,287.0	3,175.9	2,901.4	3,836.2	4,004.1
Domestic	7,783.2	7,967.5	8,312.2	8,462.2	8,377.7	8,618.0	8,550.3	8,861.1	8,904.9
Total	10,781.4	11,220.1	12,005.6	12,784.3	13,144.1	13,844.0	13,276.3	14,844.8	15,069.1

Source: Adapted from Office of National Drug Control Policy (ONDCP), National Drug Control Strategy, FY2010 Budget Summary, May 2009, p. 15. Totals may not add due to rounding.

- a. “International” refers to activities primarily focused on or conducted in areas outside the United States, including a wide range of drug control programs to eradicate crops, seize drugs (except air and riverine interdiction seizures), arrest and prosecute major traffickers, destroy processing capabilities, develop and promote alternative crops to replace drug crops, reduce demand, investigate money laundering and financial crime activities, and promote the involvement of other nations in efforts to control the supply of and demand for drugs. “Interdiction” refers to activities designed to intercept and disrupt shipments of illegal drugs and their precursors en route to the United States from abroad. “Domestic” refers to activities related to domestic demand reduction, including federal drug treatment and drug prevention programs, as well as domestic law enforcement.

Agency Roles

Several U.S. agencies are involved in implementing U.S. international counternarcotics activities in support of the Administration’s 2009 National Drug Control Strategy. These agencies include the following:

- **Office of National Drug Control Policy (ONDCP).**²¹ Located within the Executive Office of the President, ONDCP establishes U.S. counterdrug policies and goals, and coordinates the federal budget to combat drugs both domestically and internationally. Every year, ONDCP’s director, sometimes referred to as the

²⁰ Office on National Drug Control Policy (ONDCP), National Drug Control Strategy, FY2009 Budget Summary, February 2008, p. 11, at http://www.whitehousedrugpolicy.gov/publications/policy/09budget/tbl_1.pdf.

²¹ Congress established ONDCP in 1988 in the National Narcotics Leadership Act of 1988 (Title I, Subtitle A of the Anti-Drug Abuse Act of 1988, P.L. 100-690), which has since been amended. For additional information on ONDCP, see CRS Report RL32352, *War on Drugs: Reauthorization and Oversight of the Office of National Drug Control Policy*, by Mark Eddy.

U.S. drug czar, produces the National Drug Control Strategy and the federal counterdrug budget summary.

- **Department of State.**²² The Secretary of State is responsible for coordinating all international counterdrug programs implemented by the U.S. government, including foreign counternarcotics assistance. The State Department identifies fighting the production, transportation, and sale of illegal narcotics among its primary goals.²³ Every March, the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) produces the International Narcotics Strategy Report (INCSR), which describes the efforts of key countries to attack all aspects of the international drug trade, including anti-money laundering during the previous calendar year.
- **Agency for International Development (USAID).** USAID provides assistance for long-term economic and social development. The USAID Administrator serves concurrently as the State Department's Director of U.S. Foreign Assistance, with a rank equivalent to Deputy Secretary of State. USAID plays a role in counternarcotics development assistance, especially regarding alternative livelihood programs, which are designed to offer alternatives to farmers that will enable and encourage them to discontinue planting poppy and other illicit crops.
- **Department of Defense (DOD).** DOD maintains the lead role in detecting and monitoring aerial and maritime transit of illegal drugs into the United States²⁴ and plays a key role in collecting, analyzing, and sharing intelligence on illegal drugs with U.S. law enforcement and international security counterparts. In addition, DOD provides counternarcotics foreign assistance to train, equip, and improve the counternarcotics capacity and capabilities of relevant agencies of foreign governments with its Counternarcotics Central Transfer Account appropriations.²⁵
- **Department of Justice (DOJ).** The Attorney General is responsible for federal law enforcement and to ensure public safety against foreign and domestic threats, including illegal drug trafficking. This translates into an array of responsibilities that include law enforcement operations, drug-related intelligence analysis, prosecution and criminal justice activities, as well as police and justice sector training. Primary agencies under DOJ that focus on international drug control include the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), the National Drug Intelligence Center (NDIC), the Organized Crime Drug Enforcement Task Force (OCDETF), and the El Paso Intelligence Center (EPIC).
- **Department of Homeland Security (DHS).** The Secretary of Homeland Security is responsible for U.S. policies related to interdiction of illegal drugs entering the United States from abroad. The Strategic Plan for DHS identifies

²² Foreign Assistance Act of 1961 (P.L. 87-195; Sec. 481(b)(1); 22 U.S.C. 2291(b)(1)), as amended by Section 4(c) of the International Narcotics Control Act of 1992 (P.L. 102-583).

²³ U.S. Department of State, Strategic Plan for Fiscal Years 2007-2012, p. 15, at <http://www.state.gov/documents/organization/86291.pdf>.

²⁴ 10 U.S.C. 124, as added by Section 1202(a) of P.L. 101-189.

²⁵ Congress provides the Department of Defense (DOD) with these authorities under Section 1004 of P.L. 101-510, as amended (10 U.S.C. 374 note), and Section 1033 of P.L. 105-85, as amended.

securing the U.S. border against illegal drugs as one of its primary objectives.²⁶ Key offices within DHS that participate in counterdrug activities include the Customs and Border Protection (CBP), U.S. Coast Guard, and Immigration and Customs Enforcement (ICE).

- **Central Intelligence Agency (CIA).** The CIA's Crime and Narcotics Center collects intelligence information and develops intelligence analyses to support or conduct operations countering illicit drug activities, including trends in illegal drug crop cultivation and production.
- **Department of the Treasury.** The Treasury Department participates in counterdrug efforts as they pertain to targeting the illicit financial proceeds that result from drug trafficking. Key offices that participate in combating drug-related money laundering include the Office of Foreign Assets Control (OFAC) and the Financial Crime Enforcement Network (FinCEN).²⁷

International Drug Control Tools

Over the years, U.S. counterdrug efforts have expanded to include a broad array of tools to attack the drug trade using several approaches. The following sections describe and analyze U.S. use of eight major drug control tools: (1) multilateral cooperation, (2) foreign assistance restrictions, (3) crop eradication, (4) alternative development, (5) interdiction, (6) extradition, (7) anti-money laundering, and (8) institutional capacity building.

Multilateral Cooperation

For nearly a century, the United States has been involved in multilateral international drug control efforts, beginning with the International Opium Commission of 1909. This 1909 Commission led to the development of the first ever international drug control treaty, the Hague Opium Convention of 1912.²⁸ Since the early 1900s, the U.S. government has been a primary advocate for broadening and deepening the scope of international drug control, especially through the United Nations' three active multilateral drug control treaties: the 1961 Single Convention on Narcotic Drugs, as amended; the 1971 Convention on Psychotropic Substances; and the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.²⁹

²⁶ See p. 14 of the Department of Homeland Security's (DHS) Strategic Plan at http://www.dhs.gov/xlibrary/assets/DHS_StratPlan_FINAL_spread.pdf.

²⁷ For additional information, see U.S. Department of the Treasury, Office of Foreign Assets Control, "What You Need to Know about U.S. Sanctions Against Drug Traffickers," at <http://www.ustreas.gov/offices/enforcement/ofac/programs/narco/drugs.pdf>; see also p. 10 of FinCEN's Strategic Plan, at http://www.fincen.gov/news_room/rp/files/strategic_plan_2008.pdf.

²⁸ Article 44 of the 1961 United Nations Single Convention on Narcotic Drugs (1961 Single Convention) provides that the Hague Opium Convention of 1912 would be succeeded by the 1961 Single Convention when it entered into force.

²⁹ A copy of the 1961 Single Convention, as amended, is at http://www.incb.org/incb/convention_1961.html; the 1971 Convention is at http://www.incb.org/incb/en/convention_1971.html; and the 1988 Convention is at http://www.incb.org/incb/en/convention_1988.html.

Today, more than 95% of U.N. member states, including the United States, are parties to these three international drug control treaties.³⁰ In total, these international agreements limit international production and trade of a defined set of narcotic drugs, psychotropic substances, and the precursor chemicals used to make these substances for primarily medical and scientific purposes. The treaties also establish international mechanisms to monitor treaty adherence—through the International Narcotics Control Board (INCB)—and for the collection of data related to the illicit cultivation, production, or manufacture of proscribed drugs.

The United States also participates in multilateral assistance programs to control illegal drug production and trafficking through the U.N. Office on Drugs and Crime (UNODC) and the Inter-American Drug Abuse Control Commission (CICAD). UNODC was established in 1997 to provide field-based technical assistance on counternarcotics projects, as well as research and analysis on illegal drug market trends.³¹ As the drug control arm of the Organization of American States (OAS), CICAD serves as a regional policy forum for all aspects of Western Hemisphere illegal drug issues.³² In FY2007, the United States provided UNODC with an estimated \$4 million and OAS/CICAD with \$1.4 million. In FY2008, the United States provided UNODC with approximately \$2.1 million and OAS/CICAD with \$1.4 million.³³

Today, many observers highlight the importance of multilateral cooperation to combat drugs, particularly because of the transnational nature of the drug trade, while others continue to criticize existing institutions for failing to achieve sufficient progress in combating illegal drugs.³⁴ The UNODC has reported in recent years that global drug use has stabilized, on average; global opium poppy and coca cultivation is in decline; and global illicit drug seizures are up—and that a major contributing factor has been the continued international support for drug control policies.³⁵ Global coordination, many say, is vital for lasting success in combating the international drug trade. At the same time, however, others criticize the international drug control system for failing to achieve the United Nation’s stated goal of “eliminating or reducing significantly” by 2008 the production and availability of synthetic drugs and precursors, as well as the cultivation of the coca bush, cannabis plant, and opium poppy.³⁶ In 2009, the U.N.’s Commission on Narcotic Drugs set a new date of 2019 to “eliminate or reduce significantly and measurably” the cultivation of illegal plant-based drugs, the demand for illegal drugs, the production and trafficking of synthetic drugs, the diversion and trafficking of precursor chemicals used in the manufacture of illegal drugs, and drug-related money laundering.³⁷

³⁰ International Narcotics Control Board (INCB), 2008 Report, 2009, at <http://www.incb.org/incb/en/annual-report-2008.html>.

³¹ The UNODC website is available at <http://www.unodc.org/unodc/index.html>. UNODC’s budget in the 2006-2007 biennium totaled \$283 million, \$120.2 million of which was devoted for drug control assistance projects.

³² The CICAD website is available at <http://www.cicad.oas.org/>.

³³ U.S. Department of State response to CRS request, February 5, 2009.

³⁴ “The International War on Drugs,” Cato Handbook for Congress, 2003, 2009.

³⁵ UNODC, *World Drug Report*, 2008 edition for the stability of drug use patterns and the 2009 edition for cultivation and seizures trends in 2008.

³⁶ UN General Assembly, Political Declaration, A/RES/S-20/2, October 21, 1998.

³⁷ UN Commission on Drugs, Report on the 52nd Session, Political Declaration, E/2009/28, E/CN.7/2009/12 (2009).

Foreign Assistance Sanctions

“Drug Majors” and the Certification Process

In an effort to deter foreign governments from aiding or participating in illicit drug production or trafficking, the President may suspend U.S. foreign assistance appropriations to countries that are major illegal drug producers or major transit countries for illegal drugs, known as “drug majors.”³⁸ For FY2009, the President has identified 20 drug majors (see **Figure 1**). Of these, Congress requires that the President identify those drug majors that have “failed demonstrably” to make at least “substantial efforts” to adhere to their obligations during the previous year under international counternarcotics agreements.

Failure to receive a presidential certification of substantial counternarcotics efforts results in foreign assistance prohibitions against those drug majors. There are two exceptions to the requirement.³⁹ Drug majors that “failed demonstrably” to make “substantial efforts” to adhere to their obligations during the previous year under international counternarcotics agreements may be allowed to continue receiving U.S. foreign assistance if the President determines that assistance is “vital” to U.S. national interests. Further, foreign assistance may be withheld by Congress, despite a presidential certification, if Congress enacts a joint resolution disapproving of the presidential certification.

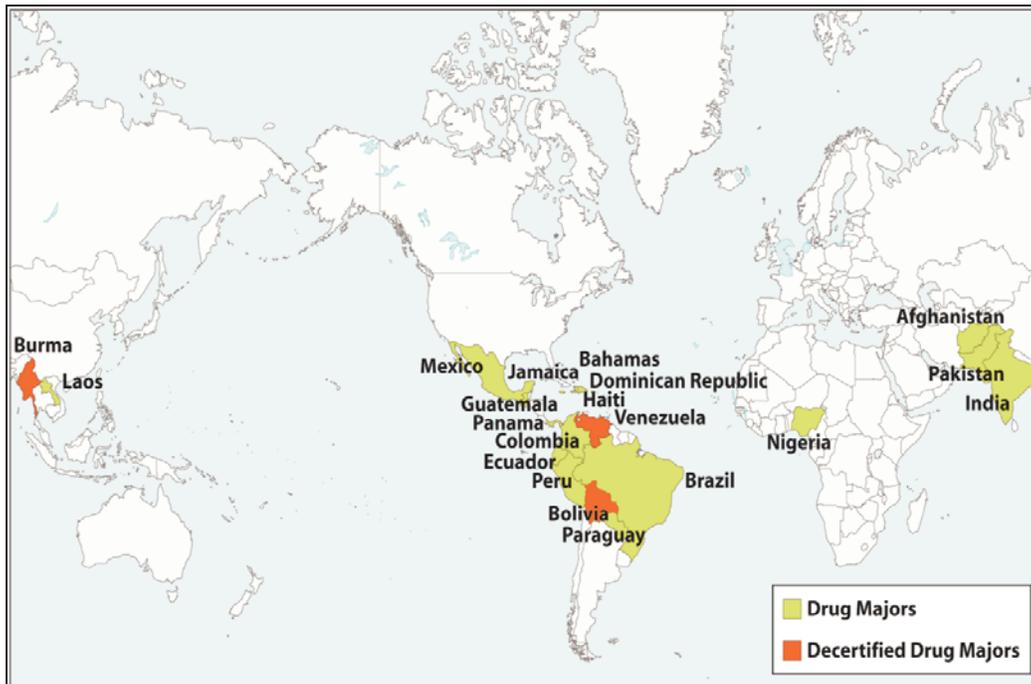
For FY2009, the President did not certify three drug majors—Bolivia, Burma and Venezuela—and U.S. assistance to these countries is limited to “programs to aid Venezuela’s democratic institutions” and for “continued support for bilateral programs in Bolivia” (see **Figure 1**).⁴⁰

³⁸ Since 1992, Congress has required that the President submit annual reports, which identify major drug transit and major drug producing countries, known as the “drug majors.” Major illicit drug producing countries are defined by section 481(e)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(2)) as a country in which (1) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year, (2) 1,000 hectares or more of illicit coca is cultivated or harvested during a year, or (3) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States. Major drug-transit countries are defined by section 481(e)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(5)) as a country (1) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States, or (2) through which are transported such drugs or substances.

³⁹ See 22 U.S.C. 2291j-1.

⁴⁰ George W. Bush, Presidential Determination No. 2008-28, “Memorandum to the Secretary of State: Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2009,” September 16, 2008, at <http://www.state.gov/p/inl/rls/prsr/ps/109777.htm>.

Figure I. Map of World Drug Majors in FY2009



Source: George W. Bush, Presidential Determination No. 2008-28, “Memorandum to the Secretary of State: Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2009,” September 16, 2008, at <http://www.state.gov/p/inl/rls/prsr/ps/109777.htm>.

Since its creation, the drug majors designation process has garnered significant controversy. Supporters of the process argue that, overall, it is an “effective diplomatic instrument” to enforce international drug control commitments because it holds foreign governments “publicly responsible for their actions before their international peers.”⁴¹ However, in a few extreme cases, the drug majors designation does not appear to have much effect on a country’s drug control policies. In the case of Bolivia, the designation on September 16, 2008, appears to have had the opposite effect, in part causing a further rift in counternarcotics policy between Bolivia and the United States.⁴² Observers from many countries criticize the unilateral and non-cooperative nature of the drug certification requirements; such critics recommend moving toward multilateral and regional fora for evaluating governments’ counterdrug efforts. Others question the extent to which the process reduces the scope of the illegal drug trade, when many of the world’s drug producers and transit areas are located in countries that are not designated as drug majors or decertified by the President.

⁴¹ See for example U.S. Department of State, 1996 International Narcotics Control Strategy Report (INCSR), 2007, at http://www.state.gov/www/global/narcotics_law/1996_narc_report/exesum96.html.

⁴² See for example Antonio Regalado, “Bolivia Plants Coca and Cocaine Flows,” *Wall Street Journal*, August 18, 2009; Office of the U.S. Trade Representative, “Fourth Report to the Congress on the Operation of the Andean Trade Preference Act as Amended,” April 30, 2009.

Methamphetamine Precursor Chemicals

A second certification process was enacted by Congress as part of the Combat Methamphetamine Epidemic Act of 2005.⁴³ This law amends the Foreign Assistance Act of 1961 to require the State Department to report the five largest importing and exporting countries of two precursor drugs, ephedrine and pseudoephedrine, commonly used to produce methamphetamine, and certify whether these countries are fully cooperating with the United States on methamphetamine chemical precursor control (see **Table 2**). Nations deemed not to be fully cooperating face a loss of U.S. bilateral assistance and U.S. opposition to multilateral assistance in the multilateral development banks.⁴⁴ For FY2009, the State Department identified 15 major precursor chemical source countries: Argentina, Brazil, Canada, Chile, China, Germany, India, Mexico, the Netherlands, Singapore, South Korea, Taiwan, Thailand, the United Kingdom, and the United States. So far, the President has not decertified any country for its efforts to control methamphetamine precursor chemicals.

Other Drug-Related Foreign Aid Certification Requirements

Several additional drug-related certification requirements appear in recent appropriations legislation for specific countries. While not codified certifications processes, failure to be certified under these provisions can result in the prohibition of various amounts of foreign aid. For example, since 2006, Congress has placed conditions on a portion of U.S. economic assistance to Afghanistan (the amount varies in appropriations legislation for different fiscal years) by requiring the President to certify that the Afghan government is “cooperating fully” with counternarcotics efforts prior to the obligation of funds, or to issue a national security waiver in order to allow assistance to continue even when counternarcotics cooperation does not reach the cooperating fully standard.⁴⁵ For each year, the President has issued a national security waiver.⁴⁶ For Mexico in FY2009, for example, 15% of U.S. aid for counternarcotics efforts is similarly contingent on a certification that human rights complaints and violations, which have reportedly increased from 182 in 2006 to 1,230 in 2008 as counternarcotics efforts have been ramped up, are addressed.⁴⁷

Crop Eradication

Eradication programs seek to combat the flow of cocaine, opium, heroin, and marijuana at the root of the supply chain—in the fields. Illicit drug crop eradication can take several forms, including (1) aerial fumigation, which involves the spraying of fields with herbicide; (2) manual

⁴³ Section 722 of Title VII of USA PATRIOT Improvement and Reauthorization Act of 2005 (P.L. 109-177; 21 U.S.C. 801 note) amended the Foreign Assistance Act of 1961 at Sections 489 and 490; for further explanation, see also H.Rept. 109-133.

⁴⁴ As with the drug majors certification process, the President can waive the foreign assistance restrictions if he determines that providing aid to the country is vital to U.S. national interest.

⁴⁵ For FY2006, see the 2006 Foreign Operations Appropriations Act, P.L. 109-102; for FY2007, see the Revised Continuing Appropriations Resolution, 2007, P.L. 110-5; for FY2008, see the FY2008 Consolidated Appropriations Act, P.L. 110-161; and for FY2009, see the Omnibus Appropriations Act, 2009, P.L. 111-8.

⁴⁶ See CRS Report RL32686, *Afghanistan: Narcotics and U.S. Policy*, by Christopher M. Blanchard, *Afghanistan: Narcotics and U.S. Policy*, by Christopher M. Blanchard, for additional information on this congressional certification requirement.

⁴⁷ Ginger Thompson and Marc Lacey, “Mexico Drug Fight Fuels Complaints,” *New York Times*, August 19, 2009.

removal, which involves the physical up-rooting and destruction of crops; and (3) mechanical removal, which involves the use of tractors and all-terrain vehicles to harrow the fields. The United States supports programs to eradicate coca, opium, and marijuana in a number of countries, including primarily Colombia and Afghanistan (see **Table 2**). These efforts are conducted by a number of U.S. government agencies and contractors that administer U.S. eradication programs providing producer countries with chemical herbicides, technical assistance and specialized equipment, and spray aircraft. In FY2007, the State Department spent approximately \$452 million on international eradication programs.⁴⁸

Table 2. U.S. Assistance for Crop Eradication

(in current U.S. \$ millions)

	FY2007 Actual^a	FY2008 Estimate^a	FY2009 Request
Afghanistan ^b	166.7	178.3	187.0
Bolivia	8.5	7.3	7.5
Colombia ^c	170.7	140.4	165.9
Guatemala	0.1	0.3	0.3
Mexico	0.2	0.0	0.1
Pakistan	2.3	1.0	3.0
Peru	32.5	20.5	14.4
INL ^d	86.2	47.2	49.3
Total	467.2	395.0	427.5

Source: U.S. Department of State response to CRS request, February 5, 2009. Funds are rounded to the first decimal.

- a. Final implementation numbers are based on additional post reporting requirements to update their operational plans.
- b. Funds listed for Afghanistan in FY2007 include \$20 million in FY2007 emergency supplemental appropriations.
- c. For FY2008 and FY2009, the Critical Flight Safety is included in the Colombia subtotals.
- d. For FY2007, Colombia's Critical Flight Safety was a separate budget line item and therefore included in the INL subtotal.

Eradication is a long-standing U.S. policy regarding international drug control. The State Department considers crop control the “most cost-effective means of cutting supply,” because drugs cannot enter the illegal trade if the crops were never planted, destroyed, or left unharvested.⁴⁹ Without drug cultivation, the State Department’s rationale continues, “there would be no need for costly enforcement and interdiction operations.” Proponents of eradication further argue that it is easier to locate and destroy crops in the field than to locate subsequently processed drugs on smuggling routes or on the streets of U.S. cities. Put differently, a kilogram of powder cocaine is far more difficult to detect than the 300 to 500 kilograms of coca leaf that are required to make that same kilogram. Also, because crops constitute the cheapest link in the narcotics

⁴⁸ State Department response to CRS request, May 23, 2008.

⁴⁹ U.S. Department of State, *2008 INCSR*, at <http://www.state.gov/p/inl/rls/nrcrpt/2008/>.

chain, producers may devote fewer economic resources to prevent their detection than to conceal more expensive and refined forms of the drug product.

Opponents of expanded supply reduction policy generally question whether reduction of the foreign supply of narcotic drugs is achievable and whether it would have a meaningful impact on levels of illicit drug use in the United States. Manual eradication requires significant time and human resources, reportedly involving upward of 20 work-hours of effort to pull up and destroy one hectare of coca plants.⁵⁰ Aerial application of herbicide is not legal or feasible in many countries and is expensive to implement where it is permitted.⁵¹ Aerial fumigation in Colombia has also raised allegations that the herbicide chemical used has caused negative human, animal, and environmental consequences.⁵²

Others question whether a global policy of simultaneous crop control is cost-effective or politically feasible because eradication efforts may also potentially result in negative political, economic, and social consequences for the producing country, especially in conflict or post-conflict environments.⁵³ Some argue that this has been the case with respect to eradication efforts in Afghanistan, where U.S. officials have recently begun to acknowledge that poppy eradication has turned many poor Afghan farmers into enemies of the Afghan government.⁵⁴ Richard Holbrooke, the Obama Administration's Special Representative for Afghanistan and Pakistan, has called Western eradication policies in Afghanistan "a failure" and that they have "wasted hundreds and hundreds of millions of dollars."⁵⁵ Further, aerial eradication remains a high-risk activity, as spray planes and their crew are targeted by drug traffickers. In 2003, the Revolutionary Armed Forces of Colombia (FARC), which the State Department lists as a foreign terrorist organization, shot down a U.S. government plane in the Colombian jungle, killing the American pilot and a Colombian air force sergeant and taking three other crew members, all U.S. defense contractors, hostage.⁵⁶ They remained FARC hostages until July 2008.⁵⁷

Alternative Development

U.S. counterdrug policy also includes foreign assistance to encourage illicit drug crop farmers to abandon drug crop cultivation by providing alternative income opportunities. U.S. alternative development programs, funded and run mainly by the State Department and U.S. Agency for

⁵⁰ Kevin J. Riley, *Snow Job? The War Against International Cocaine Trafficking* (New Brunswick, NJ: Transaction Publishers, 1996), p. 112.

⁵¹ Colombia is currently the only country that conducts regular aerial spraying of coca and opium poppy.

⁵² For further discussion of eradication policy in Colombia, see CRS Report RL33163, *Drug Crop Eradication and Alternative Development in the Andes*, by Connie Veillette and Carolina Navarrete-Frias.

⁵³ Barnett R. Rubin and Alexandra Guaqueta, *Fighting Drugs and Building Peace: Towards Policy Coherence between Counter-Narcotics and Peace Building*, Dialogue on Globalization, Occasional Paper No. 37, November 2007.

⁵⁴ Thom Shanker and Elisabeth Bumiller, "U.S. Shifts Afghan Narcotics Strategy," *New York Times*, July 23, 2009; Staff of Senator John F. Kennedy, "Afghanistan's Narco War: Breaking the Link between Drug Traffickers and Insurgents," A Report to the Senate Committee on Foreign Relations, August 10, 2009.

⁵⁵ *Ibid.*

⁵⁶ For further discussion see CRS Report RL32250, *Colombia: Issues for Congress*, by June S. Beittel and Clare Ribando Seelke, *Colombia: Issues for Congress*, by Clare Ribando Seelke and June S. Beittel, and CRS Report RS21049, *Latin America: Terrorism Issues*, by Mark P. Sullivan.

⁵⁷ "Colombia: U.S. Hostages Spotted," *New York Times*, June 10, 2008; "Betancourt, U.S. Contractors Rescued from FARC," *CNN.com*, July 3, 2008.

International Development (USAID), support U.S. counternarcotics objectives by helping countries develop economic alternatives to narcotics production, expand legal employment opportunities, and offer other incentives to farmers to discontinue planting illicit drug crops. In theory, this approach is designed to complement law enforcement and eradication efforts to provide both a “carrot and stick” strategy.

For several decades, alternative development has been implemented in various forms and with varying success.⁵⁸ Since the late 1960s, when alternative development policies were initially conceived as simply crop substitution projects, efforts have somewhat expanded to include a broader concept of alternative development. Current U.S. programs include not only crop substitution projects but also the development of and assistance for roads, infrastructure, and health care.

Some observers, however, claim that while current U.S. efforts often aim to achieve this broadened concept of alternative development, they may not always achieve it in practice. Some indicate that a relationship between alternative development projects and a reduction in illicit drug production may be tenuous, as policy coordination between alternative development projects and eradication and interdiction efforts remains limited in some cases.⁵⁹

For Colombia, Congress and the Bush Administration have been at odds over the amount of counternarcotics assistance to Colombia that should be allocated for alternative development and the amount that should be allocated for military and police-led eradication and interdiction programs. The House Appropriations Committee, in reporting out the FY2008 appropriations bill for State and Foreign Operations (H.Rept. 110-197, P.L. 110-161), expressed its preference for a “more balanced strategy” in which aid funds would be realigned from 76% for military and police assistance and 24% for alternative development to a 55%-45% split. The Administration’s FY2009 budget request, however, reverts that ratio of Colombia counternarcotics programs back to a roughly 74%-26% split.⁶⁰

Interdiction

Interdiction efforts seek to combat the drug trade as traffickers begin moving drug products from source countries to their final destinations. Several U.S. federal agencies are involved in coordinating operations with foreign government interdiction forces and providing law enforcement training and other forms of assistance to foreign countries in order to deny drug traffickers the use of transit routes. Within the so-called “transit zone”—a 42 million square-mile area between Central and South America and the U.S. southern borders, which covers the Caribbean Sea, the Gulf of Mexico, and the eastern Pacific Ocean—a DOD-led interagency group

⁵⁸ See for example UNODC, *Alternative Development: A Global Thematic Evaluation*, Final Synthesis Report, 2005, at http://www.unodc.org/pdf/Alternative_Development_Evaluation_Dec-05.pdf.

⁵⁹ See, for example, “A Failed Balance: Alternative Development and Eradication,” *Transnational Institute, Drugs and Conflict Debate Paper 4*, March 2002.

⁶⁰ U.S. Department of State, *Foreign Operations Congressional Budget Justification, Fiscal Year 2009*, p. 668, at <http://www.state.gov/documents/organization/101444.pdf>. Under “Peace and Security” for Colombia, the Administration requests \$317,707,000 for the Andean Counterdrug Program (ACP) (74%), which would go to mainly to hard-side activities, including military and police assistance, and \$83,360,000 in ESF (26%), which would go to soft-side activities, including alternative development and other economic aid. Some small portion of ACP would likely go to judicial reform, demand reduction, rule of law, and anti-money laundering programs, which would be considered soft-side activities. Further details for proposed FY2009 funding allocations, however, are not yet publicly available.

called the Joint Inter-Agency Task Force South (JIATF-South) coordinates interdiction operations across federal agency participants, as well as international liaisons from Great Britain, France, the Netherlands, and several Latin American countries. The U.S.-Mexican border is the primary point of entry for cocaine shipments and other drugs smuggled into the United States (see **Table 3**).⁶¹

Table 3. U.S. Illegal Drug Seizures Along the Southwest Border
(in metric tons)

	CY2003	CY2004	CY2005	CY2006	CY2007
Heroin	0.3	0.4	0.2	0.5	0.4
Cocaine	16.3	22.0	22.7	28.2	20.9
Cannabis	1,201.0	1,106.6	1,025.7	1,132.0	1,367.8
Methamphetamine	1.9	2.9	2.9	2.8	1.7

Source: U.S. Drug Enforcement Administration (DEA) response to CRS request, March 27, 2008.

Note: Seizure events occurred at ports of entry along the U.S.-Mexican border and up to 150 miles inside the United States where the drugs are believed to have crossed the border by land conveyance.

Outside the transit zone, other international interdiction operations involving U.S. agencies, mainly DEA, include Operation Containment, Project Cohesion, and Project Prism. Operation Containment, a multinational law enforcement effort established in 2002 and led by DEA, aims to place a “security belt” around Afghanistan to prevent processing chemicals for converting opium poppy to heroin from entering the country and opium and heroin from leaving.⁶² Project Cohesion, an international precursor chemical control initiative established in 2005 and led by the International Narcotics Control Board (INCB),⁶³ tracks precursor chemicals involved in the production of cocaine and heroin. Project Prism, a U.N.-sponsored initiative, monitors and controls illicit trade in precursor chemicals used in the production of amphetamine-type synthetic drugs. The Obama Administration’s new counternarcotics policy for Afghanistan will reportedly emphasize interdiction and the dismantling of Afghan drug trafficking syndicates.⁶⁴

Several U.S. agencies also provide foreign law enforcement training and assistance in order to enhance interdiction efforts abroad. The Department of State, the U.S. Coast Guard, U.S. Customs and Border Protection, and DEA are involved in providing anti-narcotics law enforcement training, technical assistance, and equipment for foreign personnel. The U.S. military provides international support for drug monitoring and detection. In addition, the United States regularly contributes funding and expertise to law enforcement assistance activities of the United Nations and other international organizations.

⁶¹ U.S. Department of Justice (DOJ), National Drug Intelligence Center (NDIC), National Drug Threat Assessment 2008, October 2007, Product No. 2007-Q0317-003, at <http://www.usdoj.gov/ndic/pubs25/25921/index.htm#Top>.

⁶² Statement of the Honorable Michele M. Leonhart, Acting Administrator, Drug Enforcement Administration (DEA), House Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies, March 12, 2008, at <http://www.usdoj.gov/dea/pubs/cngrtest/ct031208.html>.

⁶³ The INCB is an independent and quasi-judicial control organ monitoring the implementation of the United Nations drug control conventions.

⁶⁴ James Risen, “U.S. to Hunt Down Afghan Drug Lords Tied to Taliban,” *New York Times*, August 10, 2009; “U.S. Drug Agents Target Afghan Poppy Pushers,” National Public Radio, July 29, 2009.

U.S. interdiction activities in the transit zone, spanning the continental and maritime border areas between the United States and Latin America and the Caribbean, are sometimes considered among the bright spots of U.S. counterdrug efforts. The State Department reports that its interdiction activities in the Caribbean, including Operation Bahamas Turks and Caicos (OPBAT), contributed to a drop in illegal drug flows from 70% in the 1980s to less than 10% in recent years.⁶⁵ A 2005 report released by the Government Accountability Office (GAO), for example, highlighted the role of improved interagency coordination and international cooperation for improvements in transit zone interdiction operations.⁶⁶ Drug trafficking organizations, however, are reportedly growing increasingly sophisticated in their evasion techniques, and some observers are concerned that current interdiction capabilities may not be sufficient for long-term reductions in drug supplies. Proponents of strong drug interdiction policies, for example, have long been concerned that the nation's focus on anti-terror objectives will detract from resources and political will needed to combat foreign illicit drug production and trafficking. Supporting such concerns, the 2005 GAO report states that the commitment of U.S. military assets to Iraq and Afghanistan may hamper the ability of U.S. law enforcement to intercept drug shipments in the future.

Some observers also caution that interdiction efforts could raise the retail price of illegal drugs, potentially resulting in a perverse incentive that actually increases the economic rewards to drug traffickers; interdiction efforts that appear to be reaping success in dismantling major drug trafficking networks may nevertheless pose the unintended consequence of sparking short-term increases in drug-related violence, as surviving drug traffickers compete with one another for control—often violently—of drug routes. This appears to have been in part a contributing factor to the ongoing drug-related violence in Mexico—and some observers are raising the concern that similar consequences may occur in Afghanistan under the Obama Administration's renewed emphasis on interdiction efforts to combat the Afghan opiate trade.

Anti-money Laundering Efforts

To reap the financial benefits of the illegal drug trade, traffickers must launder their illicit profits into the licit economy. As a result, the United States and other members of the international community have sought to use anti-money laundering efforts as a tool to combat this upstream activity in the illegal drug market. Currently, several U.S. agencies are involved in international anti-money laundering efforts designed to enhance financial transaction transparency and regulation, improve cooperation and coordination with foreign governments and private financial institutions, and provide foreign countries with law enforcement training and support.

Congress has been active in pursuing anti-money laundering regulations and program oversight. In 1999, Congress passed the Foreign Narcotics Kingpin Designation Act to authorize the President to target the financial profits that significant foreign narcotics traffickers and their organizations (known as “Specially Designated Narcotics Trafficker Kingpins,” or SDNTKs) have accumulated from their illicit activities.⁶⁷ This tool seeks to deny SDNTKs and their related

⁶⁵ U.S. Department of State, Bureau for International Narcotics and Law Enforcement Affairs, Program and Budget Guide, Fiscal Year 2008 Budget, Publication No. 11453, September 2007, p. 92.

⁶⁶ U.S. Government Accountability Office (GAO), *Drug Control: Agencies Need to Plan for Likely Decline in Drug Interdiction Assets and Develop Better Performance Measures for Transit Zone Operations*, GAO-06-200, November 2005.

⁶⁷ Title VIII, International Narcotics Trafficking, of P.L. 106-120, the Intelligence Authorization Act for Fiscal Year (continued...)

businesses access to the U.S. financial system and all trade transactions involving U.S. companies and individuals.⁶⁸ Following the September 11, 2001, terrorist attacks, Congress further strengthened U.S. measures to combat money laundering by providing the Secretary of the Treasury with new authorities to impose a set of regulatory restrictions, or “special measures,” against foreign jurisdictions, foreign financial institutions, and certain classes of financial transactions involving foreign jurisdictions, if deemed by the Treasury Secretary to be “of primary money laundering concern.”⁶⁹ These anti-money laundering tools are designed not only to address drug trafficking, but also combat other forms of related criminal activity, including terrorist financing.

In addition, Congress requires that the State Department include in its annual International Narcotics Control Strategy Report (INCSR) a separate volume devoted to the state of international money laundering and financial crimes in each country. Among the report’s congressionally mandated requirements, the State Department annually identifies the world’s “major money laundering countries,” defined as those countries “whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking” and other serious crimes (see **Figure 2**).

Figure 2. Major Money Laundering Countries and Jurisdictions of Primary Money Laundering Concern in 2008



Source: U.S. Department of State, 2008 INCSR; U.S. Department of the Treasury, Financial Crimes Enforcement Network, Section 31 I Special Measures, at http://www.fincen.gov/statutes_regs/patriot/section311.html.

(...continued)

2000 (21 U.S.C. 1901-1908; 8 U.S.C. 1182).

⁶⁸ The law was reportedly modeled on Treasury’s sanctions program pursuant to Executive Order 12978 (October 1995) against Colombia drug cartels under authority of the International Emergency Economic Powers Act (Title II of P.L. 95-223; 50 U.S.C. 1701 et seq.) and the National Emergencies Act (P.L. 94-412; 50 U.S.C. 1601 et seq.).

⁶⁹ Section 311 of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (Title III, Subtitle A of P.L. 107-56, the USA PATRIOT Act of 2001) amends the Bank Secrecy Act of 1970 at 31 U.S.C. 5318A.

U.S. officials and some observers have highlighted the value of anti-money laundering efforts in combating drug trafficking. In 2007, the Treasury Department's Office of Foreign Assets Control (OFAC) reported that anti-money laundering efforts against Colombian drug cartels have been effective in isolating and incapacitating designated supporters, businesses, and front companies linked to the Cali Cartel and Norte del Valle Cartel.⁷⁰ Some observers also describe the Treasury Secretary's additional authorities to designate jurisdictions of primary money laundering concern and apply "special measures" against these jurisdictions as having "potentially profound effects on the financial services industry."⁷¹ Treasury's designation of Banco Delta Asia, for example, successfully resulted in the freezing of some \$25 million in North Korean assets—funds that reportedly included counterfeit U.S. currency and profits from other North Korean criminal activity, including drug trafficking.⁷²

Skeptics of the use of anti-money laundering efforts to combat drug trafficking argue that tracking illicit financial transactions may be more difficult and may yield less success than other counterdrug tools.⁷³ As the State Department's 2008 money laundering and financial crimes report reveals, major challenges in tracking and disrupting international money laundering activities remain.⁷⁴ The same types of money laundering methods—bulk cash smuggling, trade-based money laundering, and others—that the State Department identified as issues of concern more than a decade ago remain among the most utilized forms of money laundering today. Further, emerging challenges include the growing volume of financial transactions, especially the volume of international electronic transfers, and the movement of illegal money laundering outside formal banking channels, including through "hawala"-type chains of transnational money brokers.

Extradition

The U.S. government regularly uses extradition as an important judicial tool against suspected drug traffickers located abroad. Extradition refers to the formal surrender of a person by a state to another state for prosecution. Proponents of extradition to the United States argue that suspected criminals are more likely to receive a fair trial in U.S. courts than in countries where the local judicial process may be corrupt and where suspects can use bribes and intimidation to manipulate the outcome of a trial.

Some anecdotal evidence appears to suggest that the threat of extradition has affected the behavior of foreign drug trafficking organizations. For example, some Colombian drug traffickers are reportedly distancing themselves from overt drug distribution activities, which could be used as evidence to trigger extradition. Nevertheless, this counterdrug tool remains controversial and is not universally supported. Many countries simply refuse to extradite drug traffickers, citing concerns about the potential use of the death penalty in the United States against its citizens and state sovereignty rights. Burma is one such country, which continues to refuse to extradite four

⁷⁰ U.S. Department of the Treasury, Office of Foreign Assets Control, *Impact Report: Economic Sanctions against Colombian Drug Cartels*, March 2007.

⁷¹ See for example Douglas N. Greenburg, John Roth, and Katherine A. Sawyer, "Special Measures under Section 311 of the USA PATRIOT Act," *The Review of Banking and Financial Services*, Vol. 23, No. 6, June 2007.

⁷² See also CRS Report RL33885, *North Korean Crime-for-Profit Activities*, by Liana Sun Wyler and Dick K. Nanto.

⁷³ See for example R. T. Naylor, "Wash-Out: A Critique of Follow-the-Money Methods in Crime Control Policy," *Crime, Law, and Social Change*, Vol. 32, 1999, pp. 1-57.

⁷⁴ U.S. Department of State, *2008 INCSR*, Vol. 2, at <http://www.state.gov/p/inl/rls/nrcrpt/2008/vol2/>.

suspected drug traffickers under indictment in the United States. Some observers claim that suspected traffickers often take advantage of such limitations in the extradition system and seek safe haven in countries that are unwilling to extradite.

Recently, U.S. bilateral judicial cooperation with Mexico and Colombia has improved, yielding record numbers of extradited traffickers.⁷⁵ Mexico extradited 83 fugitives to the United States in 2007, up from 63 in 2006. Colombia extradited 164 to the United States in 2007, yielding a total of more than 600 individuals since 1997, when Colombia's legislature enacted a non-retroactive law to formalize U.S.-Colombian extradition cooperation. In addition, although the United States does not have a formal extradition agreement with Afghanistan, the country voluntarily transferred to the United States two alleged traffickers in 2007 for prosecution.

Institutional Capacity Building

Another element of U.S. international narcotics control increasingly involves institutional development, such as strengthening judicial and law enforcement institutions, boosting governing capacity, and assisting in developing host nation administrative infrastructures to combat the illicit drug trade. Institutional development programs focus mainly on fighting corruption and training to support criminal justice system reforms and the rule of law.

According to the State Department, drug trafficking organizations often seek to subvert or coopt governments in order to guarantee a secure operating environment and essentially "buy their way into power."⁷⁶ Anti-corruption efforts thus seek to prevent traffickers from undermining the legitimacy and effectiveness of foreign government institutions. Some observers, however, argue that counterdrug policies are placing too little emphasis on projects that help foreign countries develop a culture supportive of the rule of law. One expert explained in congressional testimony in 2007, "unless foreign police organizations recognize and internalize what the rule of law means, what its key characteristics are, and why the rule of law is necessary to accomplish their mission, no amount of aid will get the job done."⁷⁷

Legislative Issues for the 111th Congress

The following section describes counternarcotics issues of concern to the 111th Congress, including the three largest U.S.-led international counterdrug initiatives to date: (1) the Mérida Initiative targeting Mexico and Central America, (2) the Andean Counterdrug Program (ACP) and related assistance to the region, and (3) Afghanistan counterdrug programs.

⁷⁵ U.S. Department of State, *2008 INCSR*; see also CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel.

⁷⁶ U.S. Department of State, *2008 INCSR*.

⁷⁷ Statement of Dr. Roy S. Godson, Emeritus Professor, Government, Georgetown University, President, National Strategy Information Center, House Foreign Affairs Committee, Subcommittee on the Western Hemisphere, "Violence in Central America," June 26, 2007.

Counternarcotics Aid to U.S. Transit Zone Countries: Mérida Initiative and Beyond

The United States and Mexico announced on October 22, 2007, the start of a multiyear, bilateral security agreement called the Mérida Initiative.⁷⁸ This Initiative aims to combat drug trafficking and other criminal activity along the U.S.-Mexican border, as well as in Central America.⁷⁹ The U.S.-Mexican border is viewed as especially important for U.S. counternarcotics efforts because Mexico is currently the primary point of entry for cocaine and other drug shipments smuggled into the United States. Proposed U.S. bilateral assistance to Mexico and Central America under the Initiative consists of a \$1.4 billion, three-year security package (ending FY2010) that would provide two main forms of assistance: (1) equipment, including helicopters and surveillance aircraft, and technical resources to combat drug trafficking, and (2) training and technical advice for Mexican and Central American military, judicial, and law enforcement officials.⁸⁰ Thus far, Congress has appropriated \$1.29 billion for the Mérida Initiative, \$1.12 billion of which has been allocated to Mexico and the remainder to Central America (see **Table 4**).⁸¹

Table 4. Mérida Initiative Funding, by Country
(in current U.S. \$ millions)

Country	FY2008 Enacted (P.L. 110-252)	FY2009 Enacted (P.L. 111-8 and P.L. 111-32)	FY 2010 Request
Mexico	400.0	720.0	450.0
Central America, Haiti, and the Dominican Republic	65.0	105.0	100.0
TOTAL	465.0	825.0	550.0

Sources: P.L. 110-252; P.L. 111-8; P.L. 111-32; U.S. Department of State Congressional Budget Justification for Foreign Operations, FY2010.

Despite apparent initial frustration expressed by some Members of Congress about not having been notified of the Mérida Initiative as it was being developed, observers report that the

⁷⁸ The Mérida Initiative is named for the city where it was first conceived by Presidents George W. Bush and Felipe Calderon in March 2007.

⁷⁹ See CRS Report RS22837, *Mérida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Clare Ribando Seelke, *Merida Initiative: U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Colleen W. Cook and Clare Ribando Seelke, and CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Mark P. Sullivan and June S. Beittel.

⁸⁰ U.S. domestic commitments will be or have already been implemented under the *National Southwest Border Counternarcotics Strategy*, the *National Drug Control Strategy*, the *Security Cooperation Initiative*, and the *Southwest Border Initiative*. See CRS Report RL33106, *Border Security and the Southwest Border: Background, Legislation, and Issues*, coordinated by Lisa M. Seghetti, *Border Security and the Southwest Border: Background, Legislation, and Issues*, by Lisa M. Seghetti et al.

⁸¹ On June 10, 2008, the House passed the Mérida Initiative to Combat Illicit Narcotics and Reduce Organized Crime Authorization Act of 2008 (H.R. 6028), to authorize the President to provide a total of \$1.6 billion dollars of assistance to Mexico and Central America from FY2008 through FY2010. Both houses are also considering appropriations for Mérida Initiative. The House approved the emergency Supplemental Appropriations Act, 2008 (H.R. 2642), on May 15, 2008, with \$461.5 million for the Mérida Initiative. The Senate version of H.R. 2642, as amended on May 22, 2008, would provide \$450 million for the Initiative. The bill is now in conference.

Initiative carries bipartisan support for its goals.⁸² Many observers and policy makers welcome this effort to address the increasingly violent illegal drug trade along the U.S-Mexico border. Some Members of Congress and others continue to raise several issues for concern with regard to the implementation and monitoring of the Initiative's programs. Some are especially concerned about the possibility that U.S. military personnel might be deployed into Mexico, despite U.S. pledges not to do so, and that the United States is not doing enough domestically to cut demand for illicit drugs from abroad. On the U.S. side, some observers raise concerns about how to ensure that U.S. assistance funds are not illicitly diverted by corrupt Mexican officials. Others raise concerns that the Initiative, as currently conceived, might not have a long-term effect on stemming the flow of drugs into the United States and reducing the drug economy's negative societal effects in both the United States and Mexico.

As the 111th Congress continues to evaluate and monitor the remainder of the Mérida Initiative, ending in FY2010, some of the long-term policy issues of concern include what types of counternarcotics activities to fund after the official end of the Mérida Initiative and how to ensure that the drug trade does not simply shift to other countries in the transit zone and move through different pathways to reach drug consumer destinations. Many analysts compare international counternarcotics efforts to squeezing a balloon: squeeze it in one place and it bulges out elsewhere.⁸³ Some experts caution that as the United States and other countries place pressure on a certain major drug source or trafficking zones, traffickers will likely adapt by changing routes and exploiting other paths of less resistance.⁸⁴ Partially in response, H.R. 3081 includes provisions for two new counternarcotics programs in the Transit Zone: the Caribbean Basin Security Initiative and the Central American Regional Security Initiative.

Most recently, some observers are claiming that successful pressure against Colombia cartels in the 1990s, which was expected to reduce the movement of cocaine into the United States, has instead caused the unintended consequence of strengthening Mexican drug trafficking organizations along the U.S. Southwest border without affecting the overall availability of cocaine in the United States.⁸⁵ During the 1990s, two of the primary Colombian cocaine cartels, the Medellín and Cali Cartels, controlled or influenced as much as 70% of cocaine shipped into North America; now Mexican cartels control approximately 90%.⁸⁶ Following their successful disruption, remnants of these two Colombian cartels retreated from the drug trafficking business to focus on cocaine production, while handing over much of the responsibility for trafficking cocaine and other drugs into the United States to Mexican cartels.

⁸² See, for example, comments by Eliot Engel, Chair of the House Foreign Affairs Committee, Subcommittee on the Western Hemisphere, quoted in Lourdes Heredia, "Doubts over Bush Plan on Mexico Drugs," *BBC News*, October 22, 2007.

⁸³ See for example, "Troublesome Boomerang: Illicit Drug Policy and Security," *Security Dialogue*, Vol. 28, No. 3, 1997, p. 294.

⁸⁴ For a discussion of another example, the displacement of the illegal drug industry from Peru to Colombia in the late 1980s and early 1990s, see Cornelius Friesendorf, "Squeezing the Balloon?" *Crime, Law, and Social Change*, Vol. 44, 2005, pp. 35-78.

⁸⁵ Antonio Nicaso and Lee Lamothe, *Angels, Mobsters, and Narco-Terrorists: The Rising Menace of Global Criminal Empires* (Ontario, Canada: John Wiley and Sons, 2005), p. 196; Adam Isacson, "The U.S. Military in the War on Drugs," in *Drugs and Democracy in Latin America*, edited by Coletta A. Youngers and Eileen Rosin, (Boulder, CO: Lynne Rienner Publishers, 2005), p. 45. Isacson further describes another consequences of the successful disruption of the Medellín and Cali cartels: the emergence of more than 100 "cartelitos" or baby cartels and new, dispersed networks of drug traffickers that arose in place of the large criminal organizations and which are arguably more difficult to target by law enforcement officials.

⁸⁶ Nicaso and Lamothe, p. 197.

Some now say that recent U.S. and Mexican pressure against the Mexican cartels is sparking turf rivalries between several major Mexican drug trafficking organizations.⁸⁷ These battles for control are reportedly the source of huge spikes in violence and murder along the U.S. Southwest border. As international pressure continues to target Mexican cartels, observers are already questioning where the drug trade “balloon” will bulge out next. Some suggest that drug flows to the United States will shift eastward toward the Caribbean, with Venezuela playing a larger role as a transit point.⁸⁸ Already, the State Department finds that drug smuggling flights from Venezuela to the Dominican Republic and Haiti, presumably in transit to the United States, increased 167% in 2006 and 38% in 2007.⁸⁹ Some also suggest that cocaine flows may also further shift toward Europe, with West Africa as a transit point.⁹⁰

Plan Colombia, the Andean Counterdrug Program, and the Future of Counternarcotics Aid to South America

Plan Colombia was developed by the government of Colombia in 1999 as a six-year plan, concluding in 2005, to end the country’s decades-long armed conflict, eliminate drug trafficking, and promote economic and social development. The plan aimed to curb trafficking activity and reduce coca cultivation in Colombia by 50% over five years. Congress approved legislation in support of Plan Colombia in 2000, appropriating foreign assistance funds under the Andean Counterdrug Initiative (ACI) account each year ever since.⁹¹ ACI has not only provided counternarcotics assistance for Colombia, but also for other countries in the Andean region, including Bolivia, Brazil, Ecuador, Panama, Peru, and Venezuela.⁹² Beginning in FY2008, Congress renamed ACI the “Andean Counterdrug Program,” or ACP. Since its inception in FY2000 and through FY2008, Congress has appropriated to the State Department more than \$6 billion for Plan Colombia, ACI, and ACP (see **Table 5**). For FY2009, the last fiscal year in which the ACP account will remain in existence, the State Department requested \$406.8 million. From FY2010 on, funding previously under the ACP account will be provided under the INCLE account. DOD has provided additional counterdrug assistance for training and equipping foreign counternarcotics personnel to the region; in FY2007, this amounted to approximately \$20 million for Colombia, Ecuador, and Peru.⁹³

⁸⁷ For background, see CRS Report RL34215, *Mexico’s Drug Cartels*, by Colleen W. Cook.

⁸⁸ Juan Forero, “Venezuela Steps Up Efforts to Thwart Cocaine Traffic,” *Washington Post*, April 7, 2008.

⁸⁹ Tom Brown, “Dominican Republic Sees Surge in Drug Smuggling,” *Reuters News*, May 1, 2008; U.S. Department of State, 2008 INCSR.

⁹⁰ See for example, UNODC, *Cocaine Trafficking in West Africa: The Threat to Stability and Development (with special reference to Guinea Bissau)*, December 2007, available at http://www.unodc.org/documents/data-and-analysis/west_africa_cocaine_report_2007-12_en.pdf.

⁹¹ The first appropriations legislation for Plan Colombia was located in the Military Construction Appropriations Act, 2001 (P.L. 106-246, Title III, Chapters 1 and 2).

⁹² In FY2005 ACI funds were also used for counternarcotics assistance in Guatemala and Nicaragua. Currently, ACI funds are no longer used for counternarcotics assistance in Venezuela.

⁹³ DOD report to Congress, FY2007 DOD Foreign Counterdrug Activity Report, February 2008.

Table 5. Estimated Plan Colombia/ACP Funding, by Country
(in historical U.S. \$ millions)

Country	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008 Est.	FY09 Req.
Bolivia	158.0	52.0	87.6	90.7	91.0	90.3	79.2	66.0	29.8	31.0
Colombia ^a	894.4	48.0	373.9	580.2 ^b	473.9	462.8	508.7	526.0	244.6	329.6
Ecuador	21.2	2.2	25.0	30.9	35.0	25.8	19.8	17.3	6.9	7.2
Peru	80.0	48.0	142.5	128.1	116.0	115.4	106.9	103.2	36.5	37.0
Brazil	5.0	2.0	6.0	6.0	10.2	8.9	5.9	4.0	1.0	1.0
Panama	5.0	1.4	5.0	4.5	6.5	6.0	4.5	4.0	1.0	1.0
Venezuela	4.2	1.2	5.0	2.1	5.0	3.0	2.2	1.0	—	—
Total ^c	1,167.8 ^d	154.8	645.0	842.5	737.6	712.2 ^e	727.2	721.5	319.8 ^f	406.8 ^f

Source: U.S. Department of State, *Foreign Operations Congressional Budget Justification*, Fiscal Years 2002-2009, at <http://www.state.gov/s/d/rm/rls/cbj/>.

- a. Funding listed under Colombia includes the Flight Safety and the Air Bridge Denial programs. In FY2006 and FY2007, these programs were listed separately in the congressional budget justifications—specifically, \$30.0 million for the Flight Safety Program and \$13.9 million for the Air Bridge Denial Program in FY2006, and \$61.0 million for the Flight Safety Program in FY2007.
- b. Funding listed for Colombia in FY2003 includes \$54.0 million in emergency supplemental appropriations.
- c. Totals do not include counternarcotics assistance funds to the region that are not part of ACP. Some additional counternarcotics-related funds are provided to Colombia through two other State Department accounts, Foreign Military Financing (FMF) and International Military Education and Training (IMET), as well as DOD's Central Transfer Account.
- d. ACI did not exist until FY2001. Total for FY2000 includes \$1.0 billion emergency supplemental appropriations for Plan Colombia and counternarcotics funds allocated under the International Narcotics Control (INC) account.
- e. Total ACI funds for FY2005 include \$1.0 million each for Guatemala and Nicaragua.
- f. At the request of Congress, the Administration has begun to provide alternative development and other soft-side counternarcotics assistance through non-ACP accounts since FY2008. In FY2008, non-ACP counternarcotics assistance to the region totaled \$192.5 million. In FY2009, requested non-ACP counternarcotics assistance to the region totaled \$104 million (\$15.2 million to Bolivia, \$50.7 million to Colombia, \$6.2 million to Ecuador, and \$31.9 million to Peru).

Since ACI and ACP were first implemented, U.S. assistance has focused mainly on four strategic pillars: (1) eradication of coca and opium poppy crops, (2) illegal drug interdiction, (3) alternative development to provide coca and opium poppy farmers other sources of income, and (4) institution-building to train security forces and to strengthen democratic governance capacity. Supporters of the program argue that U.S. assistance has been vital to building foreign government counternarcotics capacities. Critics of ACI and ACP often question the program's effectiveness to reduce the amount of cocaine and heroin entering the United States, because the Andean region still accounts for the production of virtually all of the world's cocaine and increasing amounts of high-quality heroin. Some also criticize the program for excessively emphasizing supply-side eradication and interdiction, especially in Colombia, without sufficient focus on economic development, institution-building, and public and private sector reform.⁹⁴

⁹⁴ See, for example, Daniel W. Christman and John G. Heimann, *Andes 2020: A New Strategy for the Challenges of* (continued...)

Others warn of a so-called “spillover” effect of counternarcotics activity in Colombia on neighboring countries such as Ecuador, where narco-linked insurgents and paramilitaries reportedly operate, and Venezuela, from where the flow of drugs destined for the United States has reportedly increased substantially in recent years.⁹⁵

In FY2008, funding for ACP declined 55.7% as compared with FY2007 levels.⁹⁶ This decline can be attributed to three notable changes. First, counternarcotics aid to the region is increasingly disbursed in several other foreign aid accounts, including Economic Support Fund (ESF) and Development Assistance (DA). For FY2008, this transfer from ACP to ESF amounts to \$192.5 million. Some say this programming move will allow more flexibility in the use of economic aid to the Andean countries. At the same time, this programming move will also cause ACP to be even more focused on supply-side eradication and interdiction, which has been a criticism of the program. Second, as of FY2008, Venezuela is no longer receiving ACP assistance. The Administration’s FY2009 request also does not include a request for any ACP funding to be allocated to Venezuela. Third, the U.S.-supported Air Bridge Denial program, which the U.S. government has spent at least \$80 million on from FY2002 through FY2006, will soon be entirely funded by Colombia.⁹⁷

As the 111th Congress evaluates the current status of counternarcotics aid to the Andean region, policymakers may choose also to reevaluate several ongoing related issues of interest, including the use of aerial eradication in Colombia, as well as the future of U.S. counternarcotics engagement with Bolivia and Venezuela. Efforts to reduce production of illicit narcotics at the source are sometimes met by active and violent opposition from a combination of trafficker, political, and economic groups. In the case of Colombia, some traffickers have aligned themselves with terrorist and insurgent groups, and have reportedly funded political candidates and parties, pro-narcotic peasant workers and trade union groups, and high-visibility, popular public works projects to cultivate support through a “Robin Hood” image. Critics have consequently argued that counternarcotics efforts, especially aerial eradication campaigns, can have the unintended effect of aggravating the country’s ongoing civil conflict. Although many argue that the use of aerial eradication in Colombia is an important counternarcotics tool, extending the reach of drug crop reduction operations into otherwise dangerous or inaccessible regions, others argue that aerial eradication increases the likelihood that farmers will align with insurgent groups rather than support government policies. Because Colombia’s guerrilla groups pose as advocates of growers, spraying may broaden support for such groups, thereby contradicting the objectives of the government’s counterinsurgency efforts in the affected zones.

(...continued)

Colombia and the Region, report of an independent commission sponsored by the Council on Foreign Relations Center for Preventive Action, 2004, p. 19, at http://www.cfr.org/publication/6640/andes_2020.html.

⁹⁵ See for example U.S. Department of State, 2008 *INCSR*; GAO, “U.S. Counternarcotics Cooperation with Venezuela has Declined,” GAO-09-806, July 2009.

⁹⁶ The FY2009 request represents a 43.6% decline from FY2007.

⁹⁷ The Air Bridge Denial program aims to target drug traffickers through the air by forcing down suspicious aircraft, using lethal force if necessary. Historically, this Air Bridge Denial program, which was originally developed in the late 1980s to interdict cocaine from Peru, has been the subject of controversy. From 2001 to 2003, the United States suspended operation of the program because operators shot down a legitimate civilian aircraft in Peru and two U.S. citizens were killed. Nevertheless, many observers highlight this program as having been one of the main contributors to the decline in Peruvian cocaine production.

Alternatives do exist, including shifting to manual eradication or targeting the drug trade at later points in the production chain by expanding interdiction operations. One alternative, which some analysts favor, is to shift counternarcotics priorities to targeting critical nodes in transportation and refining and, to the extent possible, sealing off traffic routes to and from the main coca producing zones. The argument is made that interdiction can disrupt internal markets for coca derivatives and that, compared to eradication, it imposes fewer direct costs on peasant producers and generates less political unrest. A decision to support the discontinuation of aerial eradication or the reduction in U.S. assistance for aerial eradication operations in Colombia, however, could involve a careful weighing of the political and social costs that current counternarcotics policies might be causing against the relative effectiveness of counternarcotics policy alternatives.

Another counternarcotics policy challenge that the 111th Congress confronts is how to address Bolivia and Venezuela, two countries that have in previous years been recipients of ACP funding. The President decertified both Bolivia and Venezuela for FY2009 for having “failed demonstrably” at making substantial efforts to combat the drug trade. This development raises numerous counternarcotics policy questions that the 111th Congress might face, particularly as Bolivia is the third largest coca producer in the world and, though Venezuela does not produce illicit drugs, it is a key transit point for drugs from Colombia.

The decertification label will not affect Bolivia and Venezuela’s ability to receive certain types of U.S. aid in FY2009; however, the deterioration in U.S.-Bolivian and U.S.-Venezuelan relations with regard to counternarcotics policy will affect U.S. efforts to assist these countries to combat illicit drugs.⁹⁸ Already in 2008, President of Bolivia Evo Morales expelled USAID workers and DEA agents from coca producing regions in Bolivia and the government of Venezuela has refused to sign counternarcotics cooperation letters of agreement with the United States to make funds available for cooperative programs to fight the trafficking of drugs from and through Venezuela to the United States. The questions that analysts are now asking include the following: How will the expulsion of USAID and DEA personnel in Bolivia affect cocaine production and trafficking? Should the United States reevaluate Bolivia’s arguments for legalizing the production and sale of coca leaf, which is currently an internationally controlled narcotic substance? How can the United States attempt to stem the flow of drugs emanating from Venezuela, particularly those traveling via one of the new drug transit hot spots, West Africa, to Europe, in the face of limited bilateral relations?

Afghanistan Counterdrug Programs

The *U.S. Counternarcotics Strategy for Afghanistan* consists of five key elements, or pillars, that mirror Afghan initiatives and call for increased interagency and international cooperation.⁹⁹ The five pillars of the U.S. initiative are (1) public information, (2) alternative development, (3) eradication, (4) interdiction, and (5) law enforcement and justice reform. Each of these pillars,

⁹⁸ According to the State Department, Venezuela will continue to receive assistance for civil society and small community development programs and Bolivia will continue to receive assistance for agriculture development, exchange programs, small enterprise development, police training, among other programs. See David T. Johnson, “Remarks on Release of the Annual Report on the Major Illicit Drug Producing Countries for Fiscal Year 2008,” September 16, 2008.

⁹⁹ See CRS Report RL32686, *Afghanistan: Narcotics and U.S. Policy*, by Christopher M. Blanchard. See also David Shelby, “United States to Help Afghanistan Attack Narcotics Industry,” *Washington File*, U.S. Department of State, November 17, 2004.

however, is not equally weighted. In June 2009, the Obama Administration announced that it will increasingly emphasizing the importance of interdiction and alternative development and will eliminate any U.S. role in eradication efforts in Afghanistan.¹⁰⁰ The State Department, USAID, and DOD are the two main providers of U.S. counternarcotics assistance to Afghanistan and the region, with additional law enforcement and training support from DEA, DHS, and other agencies. For the State Department, USAID, and DOD alone, the Administration estimates that approximately \$937.5 million in FY2009 funds will be spent for counternarcotics aid to Afghanistan—representing a 62% increase from FY2008 (see **Table 6**). Western European countries are a large consumer of Afghanistan source opium, and increasingly other nations, notably the United Kingdom, are playing a prominent role in supporting Afghan counternarcotics efforts.

Table 6. Estimated U.S. Counternarcotics Assistance for Afghanistan, by Agency
(in current U.S. \$ millions)

Agency	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009 Est.	FY2010 Req.
State Dept. and USAID	39.4	0.0	50.0	499.8	287.6	425.7	389.2	624.6	473.2
DOD	—	—	71.8	224.5	108.1	290.9	189.6	312.9	324.6
Total	39.4	0.0	121.8	724.3	395.7	716.6	578.8	937.5	797.8

Sources: U.S. Department of State, *Foreign Operations Congressional Budget Justification*, Fiscal Year 2007-2009; and DOD and State Department communications with CRS.

The opium drug industry is a significant factor in Afghanistan's fragile political and economic order—and many argue that the United States can play an important role in combating its growth. According to the 2007 *Afghanistan Opium Survey* conducted by UNODC and the Afghan Ministry of Counternarcotics (MCN), Afghanistan remained the source of 93% of the world's illicit opium in 2007. In 2007, the potential export value of Afghanistan's opiates, at border prices in neighboring regions, was \$4 billion.¹⁰¹ This record production occurred in spite of ongoing efforts by the Afghan government, the United States, and their international partners to combat poppy cultivation and drug trafficking. Observers remain concerned about how to break the links between the illegal narcotics industry and political instability, as conflict and regional instability have reportedly accompanied efforts to expand existing counternarcotics efforts.

As the 111th Congress considers Afghanistan counternarcotics policy objectives and assistance, policymakers remain challenged by evaluating how the pursuit of counterterrorism and counterinsurgency objectives might hinder or support counternarcotics goals. Some observers explain that U.S. and allied counterinsurgency actors are placed in a dilemma when their informants also happen to be known drug traffickers. Difficulty thus remains in balancing between developing “tactical coalition allies” in militia and other irregular forces who could help with counterterrorism and counterinsurgency objectives, when these same individuals have ties to the drug trade. If U.S. counterterrorism and counterinsurgency objectives are a higher priority

¹⁰⁰ See Holbrooke's Briefing on Trip to Pakistan, Afghanistan, and Brussels, July 2009, posted on the Council on Foreign Relations website; Karen DeYoung, “U.S. and Britain again Target Afghan Poppies; Farmers Would be Paid Not to Grow Crop,” *Washington Post*, August 8, 2009.

¹⁰¹ UNODC, *Afghanistan Opium Survey 2008*, November 2008.

than counternarcotics objectives, such issues could affect the feasibility and success of counternarcotics policy goals in Afghanistan.

Alternative Policy Approaches

Several approaches have been proposed to reshape U.S. international narcotics control policy. This section explores selected examples of alternative international drug control policy approaches and identifies U.S. participation and positions, if any, in the debates. The following section is not exhaustive, but emblematic of a broad spectrum of frequently discussed drug policy alternatives or recalibrations.

Rebalance Current Drug Policy Tools

Emphasize “Hard-Side” of Counternarcotics Policy

Some argue that the United States should intensify military and law enforcement activities, including activities funded by foreign assistance, designed to disrupt the transit of illicit drugs into the United States. Such so-called “hard-side” activities include interdiction, forced eradication, and training, equipping, and supporting other law enforcement and military activities geared toward directly targeting drug trafficking organizations and related traffickers. For FY2007, hard-side counternarcotics activities constituted roughly 33% of the total domestic and international U.S. counterdrug budget—\$3.2 billion for interdiction, \$468 million for eradication, and \$946 million for other international hard-side activities.¹⁰² Policy makers justify the continued emphasis on hard-side activities because they directly disrupt the flow of foreign drugs. These tasks are also conceded to require disproportionately more funding to implement than soft-side activities. The cost of a helicopter to combat drug traffickers, for example, is substantially more than the cost of providing seeds and agricultural training for alternative crop development projects. Further, some argue that the U.S. emphasis on hard-side counternarcotics activities is necessary to carry the burden of other international participants in counterdrug efforts and foreign aid donors, who reportedly tend to shy away from hard-side projects.¹⁰³

Among those who agree that hard-side activities are a vital component of international counternarcotics strategy, some support expanding U.S. eradication efforts and recommend that the United States assume a greater role in counternarcotics activities. Some U.S. policy makers have advocated the expansion of crop eradication programs. The Bush Administration’s August 2007 U.S. Counternarcotics Strategy for Afghanistan, for example, argued that “eradication is essential to controlling the narcotics industry in Afghanistan” and that a “critical improvement” to current efforts would involve the expansion of forced eradication. The Strategy further recommended the consideration of aerial spraying as a method for implementing expanded forced eradication. Expanded eradication activities, especially those involving aerial spraying of herbicides, remain a source of controversy. Proponents argue that swift, widespread eradication is

¹⁰² U.S. Department of State, INL, *Program and Budget Guide*, Fiscal Year 2008 Budget, and discussions with State Department representatives.

¹⁰³ For example, European countries reportedly provided Colombia with approximately \$131.4 million of foreign assistance in CY2006, which mainly supported alternative development, human rights, humanitarian assistance, and good governance projects. Based on CRS discussions with State Department consultant, April 8, 2008.

necessary to establish a credible deterrent against cultivating illicit crops. Critics, however, argue that eradication may have public health and environmental safety implications, may encourage local villagers to align with anti-government insurgents, and, in the absence of alternative livelihood options, may deepen peasant impoverishment. Afghan President Hamid Karzai has long expressed categorical opposition to the use of aerial eradication, and U.S. officials state that the Administration will defer to the government of Afghanistan regarding its future use.¹⁰⁴

Eradication is not the only hard-side counternarcotics policy option available. In early 2009, Ambassador Holbrooke, the Obama Administration's Special Representative for Afghanistan and Pakistan, announced that the U.S. government will no longer participate in eradication efforts in Afghanistan, refocusing U.S. efforts instead on drug interdiction and dismantling trafficking networks. The number U.S. DEA personnel in Afghanistan is expected to rise from approximately 31 in 2008 to 81 by the end of 2009.¹⁰⁵ Under a policy that reportedly went into effect in early 2009, DOD has also compiled a list of insurgents with links to the drug trade that are targeted to be "captured or killed."¹⁰⁶ In a July 2009 press briefing, Holbrooke explained:

The United States and the ISAF forces are not going to go around assisting or participating in the destruction of poppy fields anymore. The United States has wasted hundreds of millions of dollars doing this.... All we did was alienate poppy farmers who were poor farmers, who were growing the best cash crop they could grow in a market where they couldn't get other things to market, and we were driving people into the hands of the Taliban.¹⁰⁷

Some analysts also suggest that the U.S. military should assume a greater role in counternarcotics activities. Since the 1980s, the U.S. military's role in counternarcotics efforts has gradually become more focused on training and equipping foreign counternarcotics officials. Outside the United States, U.S. military personnel have been involved in training and transporting foreign anti-narcotics personnel since 1983. Periodically, there have also been calls for multilateral military strikes against trafficking operations, as well as increased use of U.S. military forces in preemptive strikes against drug fields and trafficker enclaves overseas. DOD's role in counternarcotics activity first became institutionalized in 1986 when President Ronald Reagan issued National Security Decision Directive-221 (NSDD-221), which directed U.S. military forces to "support counter-narcotics efforts more actively."¹⁰⁸ DOD's role further expanded under President George H. Bush in 1989, who issued National Security Directive-18 (NSD-18) to explicitly direct the Secretary of Defense to redefine the Pentagon's mission to include counternarcotics as one of its main priorities.¹⁰⁹ Over the years, Congress has continued to expand DOD's international counternarcotics authorities to provide counternarcotics training and operational support to an increasing number of foreign governments, as well as to provide

¹⁰⁴ See for example Kirk Semple and Tim Golden, "U.S. Presses Again to Eradicate Afghan Opium Poppies," *International Herald Tribune*, October 7, 2007.

¹⁰⁵ "U.S. Drug Agents Target Afghan Poppy Pushers," National Public Radio, July 29, 2009.

¹⁰⁶ James Risen, "U.S. to Hunt Down Afghan Drug Lords Tied to Taliban," *New York Times*, August 10, 2009.

¹⁰⁷ Richard C. Holbrooke, "Holbrooke's Briefing on Trip to Pakistan, Afghanistan, and Brussels, July 2009," July 29, 2009.

¹⁰⁸ Ronald Reagan, National Security Decision Directive 221 (NSDD-221), "Narcotics and National Security," April 8, 1986, partially declassified on November 7, 1995, redacted version available at <http://www.fas.org/irp/offdocs/nsdd/nsdd-221.htm>.

¹⁰⁹ George Bush, *National Security Directive 18*, "International Counternarcotics Strategy," August 21, 1989, released in full on August 23, 2001, unclassified version available at <http://bushlibrary.tamu.edu/research/pdfs/nsd/nsd18.pdf>.

counterterrorism support to foreign law enforcement personnel who are also conducting counternarcotics activities.

Despite the military's ability to support drug law enforcement organizations, questions remain as to the overall effectiveness of a major military role in narcotics interdiction. Proponents of substantially increasing the military's role in supporting civilian law enforcement narcotics interdiction activity argue that narcotics trafficking poses a national security threat to the United States, that only the military is equipped and has the resources to counter powerful trafficking organizations, and that counterdrug support provides the military with beneficial, realistic training. In contrast, opponents argue that drug interdiction is a law enforcement mission rather than a military mission, that drug enforcement is an unconventional war that the military is ill-equipped to fight, that a drug enforcement role detracts from readiness for future combat operations, and exposes the military to corruption, and that the use of the military may have serious political and diplomatic repercussions overseas. Moreover, some personnel in the military remain concerned about an expanded role, seeing themselves as possible scapegoats for policies that have failed, or might fail.

Emphasize “Soft-Side” of Counternarcotics Policy

Those promoting expansion of efforts to reduce production at the source face the challenge of instituting programs that effectively reduce production of narcotic crops and production of refined narcotics without creating unmanageable economic and political crises for target countries. A major area of concern of such policy makers is to achieve an effective balance between the “carrot” and the “stick” approaches in U.S. relations with major illicit narcotics-producing and transit countries. As a result, some analysts have suggested increasingly linking hard-side activities with so-called “soft-side” activities, such as alternative livelihood development, economic development, and institutional reform efforts.

Proponents of soft-side activities argue that long-term success in halting drug production involves motivating producers to refrain permanently from growing illicit crops. Many observe that because short-term economic stability of nations supplying illegal drugs may depend on the production and sale of illicit substances, it is unrealistic to expect such nations to limit their drug-related activities meaningfully without an alternative source of income. It has been suggested by some analysts that a massive foreign aid effort—a so-called “mini-Marshall Plan”—is the only feasible method of persuading developing nations to curb their production of illicit drugs.¹¹⁰ Such a plan would involve a multilateral effort, including participation of the United States and other industrialized donor nations susceptible to the drug problem. The thrust of such a plan would be to promote economic development, replacing illicit cash crops with other marketable alternatives. In Afghanistan, the Obama Administration is beginning a new phase of counterdrug policy that emphasizes alternative development, including programs to subsidize alternative agriculture, provide low-cost loan and credit options to farmers, and pay seasonal poppy harvesters to work instead on road construction, irrigation and other projects.¹¹¹

¹¹⁰ See for example comments by former Colombian President Andres Pastrana in NewsHour with Jim Lehrer, transcript of interview on October 6, 1998, at http://www.pbs.org/newshour/bb/latin_america/july-dec98/pastrana_10-6.html.

¹¹¹ Karen DeYoung, “U.S. and Britain Again Target Afghan Poppies; Farmers Would Be Paid Not to Grow Crop,” *The Washington Post*, August 8, 2009.

Critics have concerns regarding positive incentive concepts. They warn of the open-ended cost of agricultural development programs, economic development projects, and institutional capacity building efforts. Programs would likely be coupled with rigid domestic law enforcement and penalties for non-compliance, which could require a U.S. commitment of further foreign assistance that aids a country to strengthen its institutional capacity to implement the rule of law. Sometimes, marketable alternatives are more difficult to develop than simply substituting illicit crops with licit crops. Drug crop zones are often located in geographically remote areas, with marginal soil quality and extreme insecurity that tend to limit prospects for legal commercial agriculture. In some parts of Colombia, for example, observers claim that the most promising strategy to stem drug crop production is to improve educational opportunities and foster the development of new economies in other locales, including urban settings, that former farmers could transition into with their new skill sets. In the view of these analyses, the best substitute crop for coca or opium could well be an assembly plant producing electronic goods or automobiles for the international market. Developing such new economies, however, could involve potentially costly commitments in foreign assistance.

Emphasize Drug Demand Reduction

According to the ONDCP's National Drug Control Strategy budget, roughly 35% of the total drug control budget in FY2009 was allocated for demand reduction activities, including treatment and prevention, while 65% was allocated for domestic and international supply-side reduction activities.¹¹² In FY2002, roughly 46% of the total drug control budget was for demand reduction activities, and 54% was for supply-side activities. Some observers point to this gradual shift in resources toward supply-side activities to claim that U.S. counternarcotics policy focuses primarily on combating the supply of illegal drugs, to the detriment of focusing on domestic drug demand reduction. Such arguments are especially voiced by observers in drug producing countries and drug transit countries, who view U.S. consumption of illegal drugs as the source of the problem.¹¹³ Supporters of stronger drug demand reduction programs also argue that it could be more cost effective to combat illegal drug use and trafficking domestically than in drug source and transit countries in the developing world, where resources and government capacity to combat drugs may be limited.¹¹⁴ As a result, such critics urge the Administration to rebalance the drug control budget to include more funding for drug demand reduction and less for drug supply reduction.¹¹⁵

The Administration, however, posits that issues related to the balance between counternarcotics resources for drug demand reduction and supply reduction have already been adequately addressed. At the same time, others argue that further emphasis on supply-side drug control activities is warranted, as transnational drug trafficking organizations continue to pose threats to U.S. and international security.

¹¹² ONDCP, National Drug Control Strategy, FY2010 Budget Summary, May 2009.

¹¹³ See for example International Crisis Group, "Latin American Drugs II: Improving Policy and Reducing Harm," Latin America Report No. 26, March 14, 2008; "Africa: New Front in Drugs War," BBC News, July 9, 2007; "West Africa: More Funds Needed to Tackle Drug Use, NGOs Say," IRIN News, November 5, 2007.

¹¹⁴ <http://domesticpolicy.oversight.house.gov/documents/20080324124013.pdf>.

¹¹⁵ See also CRS Report RL32352, *War on Drugs: Reauthorization and Oversight of the Office of National Drug Control Policy*, by Mark Eddy.

Reevaluate Prohibitionist Drug Regime

Legalize Illegal Drugs

For decades, many critics of the current international drug control regime have argued for legalizing drugs. Drug legalization proposals take several forms, which differ in the extent to which the legalized drug trade would be regulated by the government. At one end of the spectrum are those who call for a wholesale deregulation of the drug industry. Such laissez faire advocates argue that individuals should be able to exert their own free will in deciding whether to engage in an activity, including potentially dangerous ones. Few proponents of drug legalization, however, endorse wholesale deregulation. Instead, some support modified legalization schemes that involve various amounts of government regulation. These proposals, for example, recommend legalizing some, but not all, types of currently banned drugs; restricting the sale of drugs to minors, similar to those currently placed on tobacco products and alcohol in many countries; or restricting the locations and types of vendors that would be allowed to sell drugs.

Proponents of drug legalization suggest that removing current sanctions against the drug trade could improve the political and social stability of producer countries. *The Economist* argues that legalizing drugs could undercut powerful drug traffickers who threaten state stability and corrupt political institutions, as it reportedly has in countries such as Mexico and Colombia, and could eliminate use of the illicit drug trade as a source of revenue for certain regimes, including North Korea.¹¹⁶ In addition, some argue that legalizing drugs would allow the United States and others to reduce the amount of resources devoted to eliminating the illicit drug supply through eradication, interdiction, and other law enforcement efforts.¹¹⁷

Legalizing the trade in substances currently proscribed by the international drug control regime would involve removing them from the U.N. lists of controlled substances. One such effort is currently led by the Bolivian government with regard to coca leaf, which is listed as a controlled narcotic drug by the United Nations, along with heroin, cocaine, marijuana, and others that are considered to be “liable to abuse” and “productive of ill effects.”¹¹⁸ Proponents of this move argue that coca leaf has been an integral part of Bolivian culture, especially for many of the country’s indigenous people, for generations and the option of exporting coca leaf internationally could provide a new, licit source of income to Bolivian peasants. The leaves are often chewed or consumed in teas and reportedly serve as a mild stimulant, an appetite suppressant, and an herbal remedy to altitude sickness, among other uses.¹¹⁹ International debate continues to surround the justifications for including coca leaf as a narcotic drug.¹²⁰ Proponents argue that consumption of coca leaf is not addictive or harmful to public health. They also claim that the original decision to list coca leaf may have been politically motivated and the consequence of ethnic discrimination.

¹¹⁶ “The Case for Legalising Drugs: Time for a Puff of Sanity,” *The Economist*, July 28, 2001.

¹¹⁷ See, for example, Paul Stares, “Drug Legalization: Time for a Real Debate,” *Brookings Review*, March 1996, Vol. 14, No. 2.

¹¹⁸ Article 49 of the 1961 Convention gave countries practicing coca leaf chewing 25 years following the Convention’s entry into force to abolish coca leaf chewing.

¹¹⁹ See, for example, “Bolivia Could Put Coca Leaves on Coat of Arms,” *Reuters*, March 14, 2007.

¹²⁰ For a short summary, see Francisco E. Thoumi, “A Modest Proposal to Clarify the Status of Coca in the United Nations Conventions,” *Crime, Law, and Social Change*, Vol. 42, 2004, pp. 297-307.

Others, including the Administration, argue that coca leaf should remain on the U.N. list of banned substances.¹²¹ As early as 1952, the World Health Organization (WHO) Expert Committee on Drug Dependence concluded that coca chewing “must be defined and treated as an addiction, in spite of the occasional absence of some of those characteristics.”¹²² In 1993, the WHO Expert Committee revisited coca leaf and reported that it should remain internationally controlled because cocaine is “readily extractable” from coca leaf.¹²³ In 2006, the Bolivian government requested another review of coca leaf by the WHO Expert Committee, which has not yet been completed. In the meantime, the INCB’s 2007 annual report calls for Bolivia and Peru to abolish and prohibit coca leaf chewing and the manufacture of coca tea (*mate de coca*) and other products containing coca alkaloids for domestic use and export.¹²⁴

Successive U.S. administrations have remained steadfast against such legalization policy proposals at the international level. According to DEA, legalization could lead to several negative consequences that may outweigh many of the positive effects.¹²⁵ These include the possibility that legalization could increase the demand, abuse, and addiction stemming from an increased availability and access to potentially harmful drugs. Further, legalization may reduce the perception of the social and health risks and costs associated with drug abuse. Others have also raised concerns about the potentially complex array of regulatory questions and legislative challenges that may arise from a decision to legalize drugs.¹²⁶ Such concerns may be especially relevant to less-developed countries with limited institutional capabilities, which would likely face significant challenges and resource constraints with regulating a legalized drug trade. No current legislative proposals have been introduced to advocate the legalization of controlled substances both domestically and internationally. Some Members of Congress, however, have at various times expressed interest in exploring legalization options.¹²⁷ Congress has occasionally played a role in evaluating such considerations through oversight of agencies involved in carrying out international drug control policy and hearings.¹²⁸

¹²¹ U.S. Department of State, *2008 INCSR*.

¹²² World Health Organization, WHO Expert Committee on Drugs Liable to Produce Addiction, Third Report, Technical Series Report No. 57, at http://whqlibdoc.who.int/trs/WHO_TRS_57.pdf.

¹²³ World Health Organization, WHO Expert Committee on Drug Dependence, Twenty-Eight Report, Technical Series Report No. 836, at http://whqlibdoc.who.int/trs/WHO_TRS_836.pdf.

¹²⁴ INCB, *Report for 2007*, pp. 37-38.

¹²⁵ U.S. Department of Justice (DOJ), Drug Enforcement Administration (DEA), FY2008 Performance Budget, *Congressional Budget Submission*, p. 22, at http://www.usdoj.gov/jmd/2008justification/pdf/35_dea.pdf.

¹²⁶ Among the most basic questions are those about which types of drugs would be legalized, where they would be allowed to be sold, and whether drug production and sales would be under government or private control. Regulatory questions also arise, including what types of quality control and drug safety precautions on use would be implemented, how would quality and safety standards be monitored and enforced, whether production and sale of drugs would be taxed, and what types of penalties would follow in cases of regulatory violations.

¹²⁷ See, for example, statements by Rep. Dan Burton (R-IN) and Janice Schakowsky (D-IL) in House Government Reform Committee Hearing on Heroin Crisis, December 12, 2002.

¹²⁸ The most recent hearing on drug legalization policy options occurred in 1999. See House Government Reform Criminal Justice Subcommittee Holds Hearing on Drug Policy, June 16, 1999. More recently, Members occasionally ask questions related to drug legalization during other hearings on subjects related to drug control policy. See, for example, House Government Reform Committee Hearing on Heroin Crisis, December 12, 2002.

Decriminalize Illegal Drugs

Several countries in Europe, including the Netherlands, Spain, and Portugal, have supported efforts to decriminalize drugs.¹²⁹ In contrast to drug legalization schemes, drugs remain illegal while criminal penalties associated with drug use and sale are reduced or removed in certain circumstances. The *1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* obligates signatory parties to criminalize the production, sale, transport, and cultivation of these substances, including the profits from drug-related activity. However, the Convention also allows for states to use their own discretion in dealing with lower-level offenses. Specifically, it states that in “appropriate cases of a minor nature” it is left to the discretion of member states to provide “as alternatives to conviction or punishment” measures such as education, rehabilitation, social reintegration, drug treatment, and aftercare. Further, none of the U.N. drug control agreements prevent a state from applying more strict or severe measures if it considers them desirable or necessary.

Proponents of decriminalization argue that it is a novel policy solution that should be considered as an alternative to what many consider strictly prohibitionist policies. Some proponents also argue that decriminalization of small-scale and less-severe drug trafficking or drug use cases is a logical cost-benefit decision that can help countries with limited resources to concentrate on combating higher-level offenders and traffickers. Critics remain concerned that decriminalization could provide welcome loopholes for traffickers who could avoid penalties for possession and distribution of illegal drugs if caught. Countries that have experimented with decriminalization policies, however, reveal mixed results.¹³⁰ In certain parts of the Netherlands, where marijuana use in so-called coffee houses has long been effectively decriminalized, some local districts are closing the coffee houses down, due to reportedly disruptive behavior of drug tourists, mainly from France and Belgium, and the increased presence of drug traffickers near the coffee houses, seeking to sell other drugs, such as cocaine and heroin, to coffee house patrons.¹³¹ Further, the wide variance in criminalization policies across countries has reportedly been a source of tension and confusion between countries and could hamper international cooperation for drug control.¹³²

On August 21, 2009, a controversial law essentially decriminalizing possession of several major illicit drugs—including marijuana, cocaine, heroin, methamphetamine, and others—went into effect in Mexico. While the new law does not legalize any type of drug, it states that drug users found in possession of illegal drugs below the newly established limit (5 grams of marijuana, 500 milligrams of cocaine, 50 milligrams of heroin, 40 milligrams of methamphetamine, and 0.015 milligrams of LSD) will not face criminal prosecution.¹³³ The impetus for this new law in Mexico—variations of which have previously passed the Mexican legislature but never signed by a Mexican President, which is required for enactment—is to allow Mexican counternarcotics efforts to focus on targeting major drug traffickers and their networks rather than drug users, free

¹²⁹ In the United States, some state and local governments have also chosen to decriminalize some types of illegal drug activities. For such a discussion related to marijuana, see CRS Report RL33211, *Medical Marijuana: Review and Analysis of Federal and State Policies*, by Mark Eddy.

¹³⁰ Robert J. MacCoun and Peter Reuter, “Does Europe Do It Better?” in *Drug War Deadlock: The Policy Battle Continues*, Laura E. Huggins, ed. (Stanford, CA: Hoover Press, 2005).

¹³¹ “Coffee Shop Trial a Test for Dutch Drug Policies,” Spiegel Online, March 18, 2009.

¹³² INCB and Caroline Chatwin, “Drug Policy Developments within the European Union: The Destabilizing Effects of Dutch and Swedish Drug Policies,” *The British Journal of Criminology*, Summer 2003, Vol. 43, No. 3, pp. 567-582.

¹³³ “Mexico Legalizes Drug Possession,” Associated Press, August 21, 2009.

up space in Mexican jails to make room for traffickers, and emphasize drug user rehabilitation and treatment rather than incarceration. The new law, however, remains controversial among many policymakers and observers, as concerns about the possibility of increased drug use and addiction, the ability of the law to encourage users to seek treatment, and how the new law can translate into improved incarceration rates of higher-level drug traffickers.¹³⁴ In the meantime, the Obama Administration maintains a “wait-and-see” attitude toward what consequences, positive and negative, may or may not transpire.¹³⁵

Allow Government-Supervised Drug Use for Addicts

Some analysts urge policy makers to shift drug policy efforts toward a focus on public health and harm reduction and less of a focus on law enforcement. Such efforts focus on reducing the public health consequences of drug use and include needle exchange programs and government-sponsored injection rooms. Drug injection rooms, or “maintenance clinics,” have existed in several countries, including Canada, Germany, and Australia; in November 2008, Switzerland voted to make permanent its heroin supervised injection, which began in 1994.¹³⁶ They have provided certain addicts with drugs or clean needles on a regular basis. Some of the same countries also provide free testing of drugs for purity and potentially deadly contaminants.

A major impetus for such a policy approach began with concerns about the spread of HIV/AIDS among intravenous drug users in the 1980s, which raised attention to the health issues related to drug use. According to advocates of this approach, complete eradication of drugs from society is unrealistic and a better approach would be to focus on containing the damage caused by drugs. Nevertheless, government-supervised drug use programs exist in contravention to U.N. international drug control agreements, which obligates parties to ensure that drug use and trade are limited to scientific and medical purposes only. The INCB regularly urges those countries that maintain drug injection facilities to discontinue their operation.¹³⁷ Others remain concerned that these facilities could encourage increased levels of drug use and potentially make drug use more socially acceptable. Some studies on the effects of drug injection facilities, however, offer some tentative, but promising indications of positive results.¹³⁸ According to one drug injection clinic trial study in Switzerland, for example, researchers reported that the crime rate and the unemployment rate among its patients dropped over the course of treatment.¹³⁹

¹³⁴ Marc Lacey, “In Mexico, Ambivalence on a Drug Law,” *New York Times*, August 24, 2009.

¹³⁵ Mark Stevenson, “US ‘Wait-and-See’ Attitude on New Mexican Drug Law,” *Associated Press*, July 29, 2009.

¹³⁶ Alexander Higgins, “Swiss Approve Heroin Program, Reject Decriminalization of Marijuana,” *Associated Press*, November 30, 2008.

¹³⁷ INCB, *2007 Report*.

¹³⁸ See, for example, European Monitoring Center for Drugs and Drug Addiction, *European Report on Drug Consumption Rooms*, 2004, at http://www.emcdda.europa.eu/attachements.cfm/att_2944_EN_consumption_rooms_report.pdf.

¹³⁹ Cited in MacCoun and Reuter, who also note that this study reportedly garnered some criticism for methodological weaknesses.

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