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International Drug Control Policy

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International Drug Control Policy

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 international drug control 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. The most 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.

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. U.S. programs to combat drug production and trafficking exist in the Andean region of South America, Afghanistan, and other areas of concern. Congress is also considering a proposed multiyear, $1.4 billion security assistance package to enhance existing U.S. efforts to combat drug trafficking and related criminal activity in Mexico and Central America.

Despite apparent national resolve to address international narcotics trafficking, tensions appear 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.

This report expands and replaces RL33582, *International Drug Trade and U.S. Foreign Policy*, by Raphael F. Perl. It will be updated periodically.

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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. Narcotic drugs include cannabis, cannabis resin, coca leaf, cocaine, heroin, and opium. Psychotropic substances include ecstasy,[1] LSD,[2] 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.[3] A substantial portion of profits generated by illegal drug trade — as much as 70% — are laundered and invested through foreign banks and institutions.[4] 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 an issue of foreign policy interest for more than a century, international drug trafficking first emerged in U.S. policy debates as a national security threat in the late 1960s. In a 1971 press conference, then-President Richard

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

[2] LSD is the street name for lysergic acid diethylamide.

[3] 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. 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]. For such a discussion, 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.

[4] 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].

Nixon identified illicit drugs as America's "public enemy number one."[5] 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.[6] In 1986, President Ronald Reagan declared narcotics trafficking a threat to U.S. national security.[7] That same year, Congress expanded drug interdiction authorities and criminal penalties for drug trafficking.[8] Successive administrations have continued to feature combating the illicit drug trade prominently among U.S. national security objectives. Congress exercises its oversight responsibilities on U.S. counternarcotics policy and appropriate funds to international counternarcotics programs.

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 considers alternative counterdrug policy approaches; and finally, it raises several policy issues and considerations for drug control policy makers.

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 Bush Administration maintains the goal of reducing, and ultimately cutting off, the international flow of illegal drugs into the United States.

Since 1999, the Administration has 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.[9] The Administration's 2008 National Drug Control Strategy centers on five major goals: (1) reduce the flow of drugs into the United States; (2) disrupt and dismantle major drug trafficking organizations; (3) focus on the nexus between the drug trade and other potential

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[5] 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].

[6] 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.).

[7] 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].

[8] Anti-Drug Abuse Act of 1986 (P.L. 99-570; 21 U.S.C. 801 note).

[9] 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].

transnational threats to the United States, including terrorism; (4) deny drug traffickers, narco-terrorists, and their criminal associates their illicit profits and money laundering activities; and (5) assist foreign countries threatened by illegal drugs in strengthening their governance and law enforcement institutions.

Funding

For FY2009, the Administration has requested a total of $14.1 billion for federal drug control programs (see **Table 1**).[10] Of this, 38.6%, or $5.4 billion, is requested for international and interdiction programs.

Table 1. U.S. Drug Control Funding

(in historical U.S. $ millions)

Activities[a]	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008 Est.[b]	FY2009 Req.
International	1,084.5	1,105.1	1,159.3	1,393.3	1,434.5	2,016.6	2,043.2	1,610.4
Interdiction	1,913.7	2,147.5	2,534.1	2,928.7	3,287.0	3,175.9	3,214.2	3,830.9
Domestic	7,783.2	7,967.5	8,312.2	8,462.3	8,422.6	8,651.5	8,783.1	8,673.1
Total	10,781.4	11,220.1	12,005.6	12,784.3	13,144.1	13,844.0	14,040.5	14,114.4

Source: Office of National Drug Control Policy (ONDCP), National Drug Control Strategy, FY2009 Budget Summary, February 2008.

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.

b. These estimates include $385.1 million that the Administration is requesting in FY2008 supplemental appropriations.

Agency Roles

Several U.S. agencies are involved in implementing U.S. international counternarcotics activities in support of the Administration's 2008 National Drug Control Strategy. These agencies include the following:

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[10] 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].

- **Office of National Drug Control Policy (ONDCP).**[11] 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 February, ONDCP's director, sometimes referred to as the U.S. drug czar, produces the National Drug Control Strategy and the federal counterdrug budget summary.

- **U.S. Department of State.**[12] 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.[13] 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.

- **U.S. 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 States[14] 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

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[11] 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.

[12] 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).

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

[14] 10 U.S.C. 124, as added by Section 1202(a) of P.L. 101-189.

foreign governments with its Counternarcotics Central Transfer Account appropriations.[15]

- **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. 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 securing the U.S. border against illegal drugs as one of its primary objectives.[16] 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).[17]

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[15] Congress provides the Department of Defense (DOD) with these authorities under Section 1003 of P.L. 101-510, as amended (10 U.S.C. 374 note), and Section 1033 of P.L. 105-85, as amended.

[16] 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].

[17] 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].

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 seven 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.[18] 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.[19]

Today, more than 95% of U.N. member states, including the United States, are parties to these three international drug control treaties.[20] 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 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.[21] As the drug control arm of the Organization of American States (OAS),

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[18] 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.

[19] 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].

[20] International Narcotics Control Board (INCB), 2007 Report, 2008, at [http://www.incb.org/incb/en/annual-report-2007.html].

[21] The UNODC website is available at [http://www.unodc.org/unodc/index.html]. (continued...)

CICAD serves as a regional policy forum for all aspects of Western Hemisphere illegal drug issues.[22] In FY2006, the United States provided UNODC with approximately $3 million and OAS/CICAD with $1 million. In FY2007, the United States provided UNODC with an estimated $4 million and OAS/CICAD with $1.4 million.

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."[23] For 2008, 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.[24] Drug majors that "failed demonstrably" to make "substantial efforts" to adhere to their obligations during the previous year under international coutnernarcotics 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.

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[21] (...continued)
UNODC's budget in the 2006-2007 biennium totaled $283 million, $120.2 million of which was devoted for drug control assistance projects.

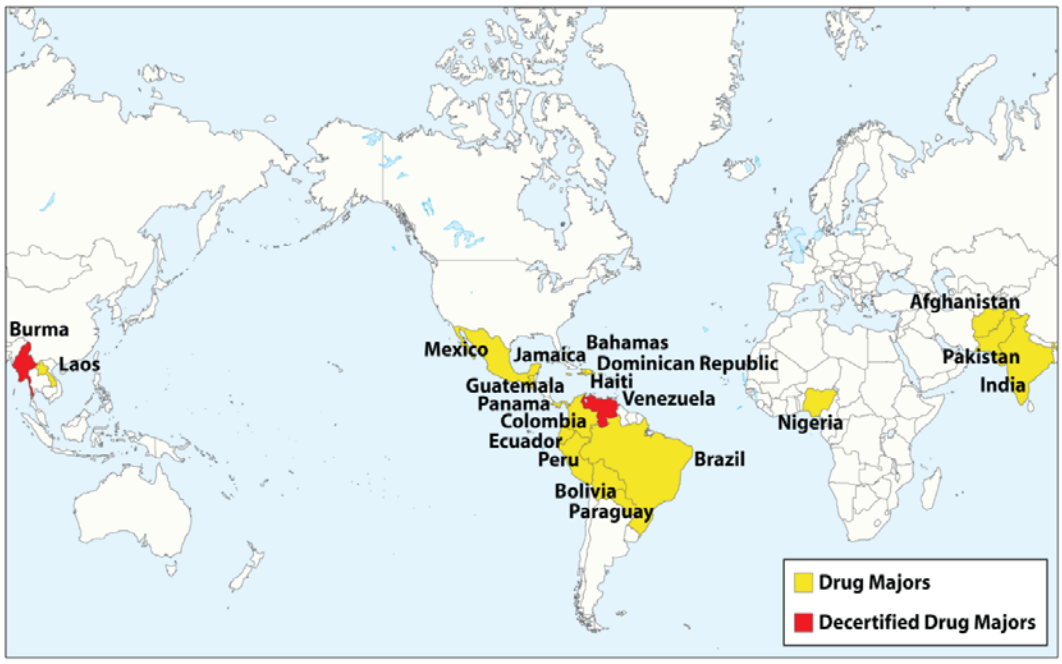
[22] The CICAD website is available at [http://www.cicad.oas.org/].

[23] 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.

[24] See 22 U.S.C. 2291j-1.

For 2008, the President did not certify two drug majors, Burma and Venezuela, and neither country will receive counternarcotics foreign assistance this fiscal year, unless the President waives the restriction (see **Figure 1**).[25]

Figure 1. Map of World Drug Majors in 2008



Source: U.S. Department of State, *2008 International Narcotics Control Strategy Report (INCSR)*, at [http://www.state.gov/p/inl/rls/nrcrpt/2008/].

Since its creation, the drug majors designation process has garnered significant controversy. Supporters of the process argue that 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."[26] 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.

Methamphetamine Precursor Chemicals. A second certification process was enacted by Congress as part of the Combat Methamphetamine Epidemic Act of

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[25] George W. Bush, Presidential Determination No. 2007-33, "Memorandum to the Secretary of State: Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2008," September 17, 2007, at [http://www.state.gov/p/inl/rls/nrcrpt/2008/vol1/html/100772.htm].

[26] 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].

2005.[27] 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.[28] For 2008, 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.

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 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.[29]

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[27] 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.

[28] 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.

[29] State Department response to CRS request, May 23, 2008.

Table 2. U.S. Assistance for Crop Eradication

(in current U.S. $ millions)

	FY2006 Actual	FY2007 Estimate	FY2008 Request
Afghanistan[a]	138.0	168.7	190.3
Bolivia	16.9	8.5	7.5
Colombia	257.0	165.6	189.7
Guatemala	0.1	0.0	0.3
Mexico	0.2	0.2	0.2
Pakistan[a]	6.0	2.6	4.0
Peru	28.7	32.5	14.2
INL[b]	66.0	73.4	54.3
Total	513.0	451.6	460.4

Source: U.S. Department of State response to CRS request, May 23, 2008.

a. Funds listed for Afghanistan and Pakistan include "crop control" programs.

b. INL manages funds related to the Interregional Aviation Support and International Organizations programs that are used for eradication.

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.[30] 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 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.[31] Aerial application of herbicide is not legal or feasible in many countries and is

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[30] U.S. Department of State, *2008 INCSR*, at [http://www.state.gov/p/inl/rls/nrcrpt/2008/].

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

expensive to implement where it is permitted.[32] Aerial fumigation in Colombia has also raised allegations that the herbicide chemical used has caused negative human, animal, and environmental consequences.[33]

Others question whether a global policy of simultaneous crop control is 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.[34] 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.[35] As of June 2008, they remain FARC hostages.[36]

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 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.[37] 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

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

[33] 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.

[34] 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.

[35] For further discussion see CRS Report RL32250, *Colombia: Issues for Congress*, by Colleen Cook and Clare Ribando Seelke, and CRS Report RS21049, *Latin America: Terrorism Issues*, by Mark Sullivan.

[36] "Colombia: U.S. Hostages Spotted," *New York Times*, June 10, 2008.

[37] 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].

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.[38]

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.[39]

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 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

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[38] See, for example, "A Failed Balance: Alternative Development and Eradication," Transnational Institute, Drugs and Conflict Debate Paper 4, March 2002.

[39] 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.

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**).[40]

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.[41] Project Cohesion, an international precursor chemical control initiative established in 2005 and led by the International Narcotics Control Board (INCB),[42] 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.

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. In addition, the United States regularly contributes funding and expertise to law enforcement assistance activities of the United Nations and other international organizations.

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[40] 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].

[41] 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].

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

U.S. interdiction activities 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.[43] 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.[44] 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 can raise the retail price of illegal drugs, potentially resulting in a perverse incentive that actually increases the economic rewards to drug traffickers.

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.[45] This tool seeks to deny SDNTKs and their related businesses access to the U.S. financial system and all trade transactions involving U.S.

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[43] 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.

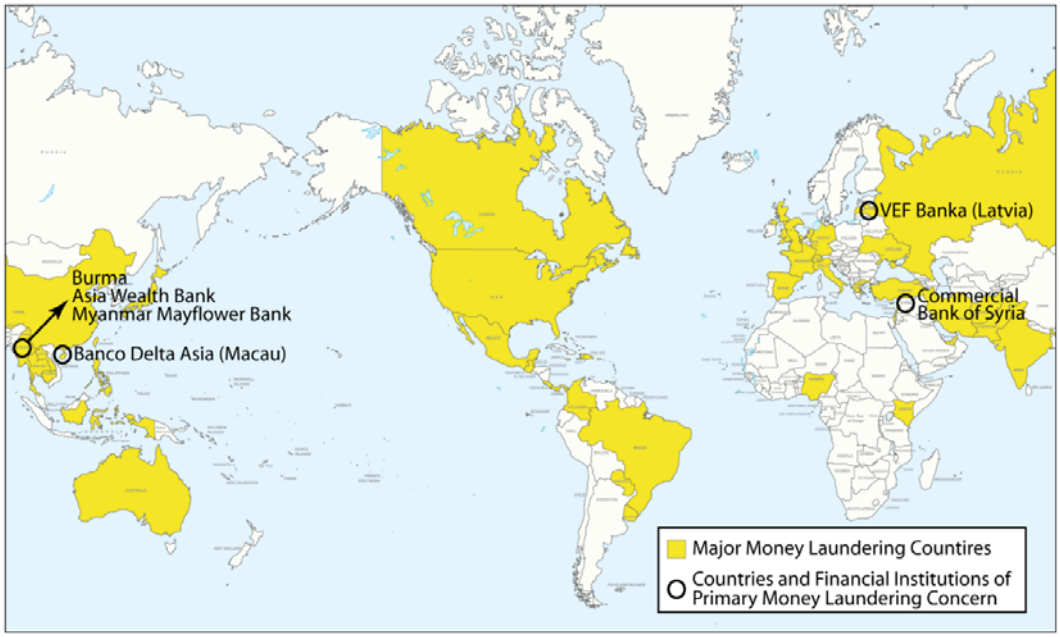
[44] U.S. Government Accountability Office (GAO), *Drug Control: Agencies Need to Plan for Likely Decline in Drug Interdiction Assets and Develop Better Performance Measures for Transit Zone Operations*, GAO-06-200, November 2005.

[45] Title VIII, International Narcotics Trafficking, of P.L. 106-120, the Intelligence Authorization Act for Fiscal Year 2000 (21 U.S.C. 1901-1908; 8 U.S.C. 1182).

companies and individuals.[46] 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."[47] 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 311 Special Measures, at [http://www.fincen.gov/statutes_regs/patriot/section311.html].

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[46] 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.).

[47] 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.[48] 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."[49] 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.[50]

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.[51] As the State Department's 2008 money laundering and financial crimes report reveals, major challenges in tracking and disrupting international money laundering activities remain.[52] 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.

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

[49] 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.

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

[51] 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.

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

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 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.[53] 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."[54] 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."[55]

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[53] U.S. Department of State, *2008 INCSR*; see also CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Colleen Cook, Rebecca Rush, and Mark Sullivan.

[54] U.S. Department of State, *2008 INCSR*.

[55] Statement of Dr. Roy S. Godson, Emeritus Professor, Government, Georgetown University, President, National Strategy Information Center, House Foreign Affairs (continued...)

U.S. Bilateral and Regional Counterdrug Initiatives

The following section describes the three most significant 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. Combined, these three programs represent more than 90% of the Administration's FY2009 U.S. international counterdrug budget.[56]

Mérida Initiative

The United States and Mexico announced on October 22, 2007, the start of a multiyear, bilateral security agreement called the Mérida Initiative.[57] This Initiative aims to combat drug trafficking and other criminal activity along the U.S.-Mexican border, as well as in Central America.[58] 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 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.[59] Thus far, the Administration has requested $1.1 billion for the Mérida Initiative in FY2008 emergency supplemental and FY2009 appropriations, $950 million of which would be allocated to Mexico and the

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[55] (...continued)
Committee, Subcommittee on the Western Hemisphere, "Violence in Central America," June 26, 2007.

[56] As defined by ONDCP, international counterdrug programs refer 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 the demand for drugs, 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.

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

[58] See CRS Report RS22837, *Merida Initiative: Proposed U.S. Anticrime and Counterdrug Assistance for Mexico and Central America*, by Colleen W. Cook et al., and CRS Report RL32724, *Mexico-U.S. Relations: Issues for Congress*, by Colleen W. Cook et al.

[59] 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*, by Lisa M. Seghetti et al. (archived), last updated on September 28, 2005.

remainder to Central America (see **Table 4**).[60] According to ONDCP, $817.3 million of the requested $1.1 billion would be devoted to counternarcotics efforts.[61]

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

Country	FY2008 Emergency Supplemental Request	FY2009 Request
Mexico	500.0	450.0
Belize	1.9	5.8
Costa Rica	4.3	9.5
El Salvador	7.1	17.3
Guatemala	11.1	17.7
Honduras	10.8	12.4
Nicaragua	3.7	6.7
Panama	3.9	8.9
Central America (Regional)	7.2	21.7
Total	550.0	550.0
Portion of Total for Counterdrug Activities Only	385.1	432.2

Source: U.S. Department of State briefing papers provided to Congressional offices; U.S. Department of State, Congressional Budget Justification for Foreign Operations, FY2009; and ONDCP, FY2009 Budget Summary.

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 Initiative carries bipartisan support for its goals.[62] Many

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[60] 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.

[61] ONDCP, National Drug Control Strategy, FY2009 Budget Summary, February 2008.

[62] See, for example, comments by Eliot Engel, Chair of the House Foreign Affairs Committee, Subcommitee on the Western Hemisphere, quoted in Lourdes Heredia, "Doubts
(continued...)

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 Mexican observers, for example, are reportedly concerned about potential strings that may be attached to the final program, which could be perceived by some as the United States infringing upon Mexico's state sovereignty.[63] 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.

Plan Colombia and the Andean Counterdrug Program

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.[64] 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.[65] 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 State Department requests $406.8 million for ACP. 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.[66]

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[62] (...continued)
over Bush Plan on Mexico Drugs," *BBC News*, October 22, 2007.

[63] See Oscar Avila, "U.S. Strings Could Snarl Drug Pact; Mexico Says Aid Deal Shouldn't Meddle in Rights," *Chicago Tribun*e, June 6, 2008; James C. McKinley, Jr., "Conditions on U.S. Aid in Drug Fight Anger Mexico," June 7, 2008; Adriana Garcia, "U.S. Drug Czar Urges Funds for War on Mexico Cartels," *Reuters News*, June 3, 2008.

[64] 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).

[65] 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.

[66] DOD report to Congress, FY2007 DOD Foreign Counterdrug Activity Report, February
(continued...)

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

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[66] (...continued)
2008.

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.[67] 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.[68]

In FY2008, funding for ACP declined 55.7% as compared with FY2007 levels.[69] 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.[70]

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[67] See, for example, Daniel W. Christman and John G. Heimann, *Andes 2020: A New Strategy for the Challenges of 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].

[68] See for example U.S. Department of State, *2008 INCSR*.

[69] The FY2009 request represents a 43.6% decline from FY2007.

[70] 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.

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.[71] 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. The State Department 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 and DOD alone, the Administration spent approximately $547 million in FY2007 funds, which represents a 38.2% increase from FY2006 (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 Estimate	FY2009 Request	FY2009 Emerg. Supp. Request
State Dept.[a]	39.4	0.0	50.0	499.8	287.6	425.7	315.7	312.6	181.0
DOD	—	—	71.8	224.5	108.1	121.3	257.6[b]	30.4	N/A
Total	39.4	0.0	121.8	724.3	395.7	547.0	573.3	343.0	—

Sources: U.S. Department of State, *Foreign Operations Congressional Budget Justification*, Fiscal Year 2007-2009 at [http://www.state.gov/s/d/rm/rls/cbj/]; unclassified report to Congress on DOD counternarcotics assistance to Afghanistan and Central Asia, FY2004-FY2007, dated January 16, 2007; DOD response to CRS request, May 8, 2008; and State Department response to CRS request, May 14, 2008.

Notes: N/A = not available. Listed funds per fiscal year include supplemental appropriations.

a. FY2002-FY2006 funding numbers were provided to CRS by the State Department. Other listed assistance refers to funds provided to Afghanistan for "counter-narcotics" program area under the "Peace and Security" objective.

b. DOD requested $257.6 million for FY2008. As of May 2008, $192.6 million has been appropriated.

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

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. 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. Further, analysts claim that U.S. counternarcotics objectives complicate counterterrorism and counterinsurgency objectives. Difficulty 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 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 and implement it more effectively. This section explores alternative international drug control policy approaches and identifies U.S. participation and positions, if any, in the debates.

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.[72] 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

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

international participants in counterdrug efforts and foreign aid donors, who reportedly tend to shy away from hard-side projects.[73]

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 Administration's August 2007 U.S. Counternarcotics Strategy for Afghanistan, for example, argues that "eradication is essential to controlling the narcotics industry in Afghanistan" and that a "critical improvement" to current efforts would involve the expansion of force eradication. The Strategy further recommends 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 necessary to establish a credible deterrent against cultivating illicit opium poppy 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 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.[74]

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."[75] 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

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[73] 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.

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

[75] 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].

counternarcotics as one of its main priorities.[76] 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 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, that a drug enforcement role exposes the military to corruption, that it is unwise public policy to require the U.S. military to operate against U.S. citizens, 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 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 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.[77] Such a plan

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[76] 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].

[77] 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/

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.

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 FY2007 was allocated for demand reduction activities, including treatment and prevention, while 65% was allocated for domestic and international supply-side reduction activities.[78] 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.[79] 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

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[77] (...continued)
newshour/bb/latin_america/july-dec98/pastrana_10-6.html].

[78] ONDCP, National Drug Control Strategy, FY2009 Budget Summary, February 2008.

[79] 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.

resources and government capacity to combat drugs may be limited.[80] 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.[81]

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. According to ONDCP's 2008 National Drug Control Strategy, for example, two of the three drug policy goals are demand reduction-oriented: to prevent domestic drug use before it begins and to rehabilitate current domestic drug users. 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.

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 Mexico and Colombia, and could eliminate use of the illicit drug trade as a source of revenue for certain regimes, including North Korea.[82] 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.[83]

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[80] [http://domesticpolicy.oversight.house.gov/documents/20080324124013.pdf]

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

[82] "The Case for Legalising Drugs: Time for a Puff of Sanity," *The Economist*, July 28, 2001.

[83] See, for example, Paul Stares, "Drug Legalization: Time for a Real Debate," *Brookings Review*, March 1996, Vol. 14, No. 2.

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."[84] 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.[85] International debate continues to surround the justifications for including coca leaf as a narcotic drug.[86] 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.

Others, including the Administration, argue that coca leaf should remain on the U.N. list of banned substances.[87] 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."[88] 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.[89] 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.[90]

Successive U.S. administrations have remained steadfast against such legalization policy proposals. According to the DEA, legalization could lead to

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[84] 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.

[85] See, for example, "Bolivia Could Put Coca Leaves on Coat of Arms," *Reuters*, March 14, 2007.

[86] 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.

[87] U.S. Department of State, *2008 INCSR*.

[88] 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].

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

[90] INCB, *Report for 2007*, pp. 37-38.

several negative consequences that may outweigh many of the positive effects.[91] 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.[92] 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 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.[93] Congress has occasionally played a role in evaluating such considerations through oversight of agencies involved in carrying out international drug control policy and hearings.[94]

Decriminalize Illegal Drugs. Several countries in Europe, including the Netherlands, Spain, and Portugal, have supported efforts to decriminalize drugs.[95] 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

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[91] 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].

[92] 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.

[93] 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.

[94] 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.

[95] 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.

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.[96] 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.[97]

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, Switzerland, Germany, and Australia. 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.[98] 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,

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[96] 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).

[97] 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.

[98] INCB, *2007 Report*.

but promising indications of positive results.[99] 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.[100]

Expand International Criminal Court Jurisdiction

Some observers argue that the International Criminal Court (ICC) should expand its jurisdiction to include drug trafficking crimes.[101] Currently, ICC jurisdiction is limited to the "most serious crimes of concern to the international community as a whole" and encompasses four areas: (1) genocide, (2) crimes against humanity, (3) war crimes, and (4) crimes of aggression. Proponents of expanding the ICC's jurisdiction argue that the current international narcotics control regime is evidence to the claim that a unified, international response to drug trafficking is required, and that establishing an international venue where transnational drug crimes can be prosecuted is a logical extension of international drug control policy. Currently, prosecution of international drug trafficking charges is negotiated between countries through bilateral and multilateral agreements, including extradition treaties. Some argue that these agreements leave many legal loopholes and opportunities for sophisticated traffickers to shift their trafficking routes and seek shelter in countries with weak law enforcement and an unwillingness to extradite.[102]

Debate over the appropriateness of including drug trafficking as part of the ICC jurisdiction dates back to the ICC's origins. Though drug trafficking is not included in the ICC's current jurisdiction, trafficking was included in the original draft statute.[103] The Senate, in the 100th Congress, expressed support of the possibility of "establishing an international criminal court to expedite cases regarding the prosecution of persons accused of having engaged in international drug trafficking."[104] Since then, various Members of Congress have sponsored failed

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[99] 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].

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

[101] Notably, the United States is not party to the Rome Statute of the International Criminal Court. Although President Bill Clinton signed the Rome Statute on December 31, 2000, no administration has submitted the treaty to the Senate for its advice and consent for ratification. See also CRS Report RL31437, *International Criminal Court: Overview and Selected Legal Issue*s, by Jennifer Elsea.

[102] Molly McConville, "A Global War on Drugs: Why the United States Should Support the Prosecution of Drug Traffickers in the International Criminal Court," *American Criminal Law Review*, Vol. 37, 2000, p. 81.

[103] *Report of the Preparatory Committee on the Establishment of an International Criminal Court*, U.N. Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, A/CONF.183/2/Add.1, April 14, 1998, p. 29.

[104] Section 4108 of the International Narcotics Control Act of 1988 (Title IV of the Anti-Drug Abuse Act of 1988; P.L. 100-690), repealed in Section 6(e) of the International

(continued...)

efforts to both support and criticize the ICC.[105] Critics of the inclusion of drug trafficking as part of the ICC's jurisdiction argue that the current system of bilateral and multilateral agreements is adequate for prosecuting international drug trafficking cases and that it would be inappropriate for the ICC to take jurisdiction because drug trafficking is not universally considered a serious crime of international concern. Further, critics argue that the potentially large number of transnational drug violations could overwhelm the ICC's capacity to prosecute effectively. The issue of including or excluding drug trafficking as part of the ICC may be revisited in 2009. As required by the Rome Statute that established the ICC, a review conference to consider amendments to the treaty is to take place in 2009.

Policy Issues and Considerations

Unintended Consequences of Current Efforts

Many analysts compare international counternarcotics efforts to squeezing a balloon: squeeze it in one place and it bulges out elsewhere.[106] 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.[107]

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.[108] During the 1990s, two of the primary Colombian cocaine cartels, the Medellin and Cali Cartels, controlled or influenced as much as 70% of cocaine shipped into North

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[104] (...continued)
Narcotics Control Act of 1992 (P.L. 102-582).

[105] See, for example H.J.Res. 89 in the 105th Congress, H.R. 2381 in the 106th Congress, and H.Con.Res. 23 in the 107th Congress.

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

[107] 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.

[108] 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 Medellin 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.

America; now Mexican cartels control approximately 90%.[109] 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.

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.[110] 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 Carribean, with Venezuela playing a larger role as a transit point.[111] 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.[112] Some also suggest that cocaine flows may also further shift toward Europe, with Brazil as a transit point.

In the opium and heroin trade, some analysts foresee a potential for international pressure against Afghanistan's illicit drug trade to shift eventually to other countries in the region. Chief among the potential replacements could be Burma and Pakistan, which the UNODC lists as the second- and third-largest sources of potential opium production in 2006, after Afghanistan.[113]

To stem potential unintended consequences, some argue that international counternarcotics efforts should begin preventive action in countries at most risk to be exploited by the drug trade in the near future. Such preventative action, in this view, could include expanding foreign assistance geared toward institutional capacity building, law enforcement training, and anti-corruption and judicial reform efforts. As resources for foreign assistance remain finite among donor nations, however, some acknowledge that policy makers may have difficulty prioritizing limited funds to countries that are currently in crisis.

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[109] Nicaso and Lamothe, p. 197.

[110] See CRS Report RL34215, *Mexico's Drug Cartels*, by Colleen W. Cook.

[111] Juan Forero, "Venezuela Steps Up Efforts to Thwart Cocaine Traffic," *Washington Post*, April 7, 2008.

[112] Tom Brown, "Dominican Republic Sees Surge in Drug Smuggling," *Reuters News*, May 1, 2008; U.S. Department of State, *2008 INCSR*.

[113] U.S. government opium production estimates differ from those of UNODC. While both the United States and UNODC agree that Burma is the second-largest source of opium production, U.S. estimates indicate that Mexico is third. Notably, Mexico is not included in UNODC estimates for 2006 because the government of Mexico reports that "it can neither provide cultivation estimates nor endorse those published by UNODC, which are derived from US Government surveys." See UNODC, *2007 World Drug Report*, p.40, at [http://www.unodc.org/unodc/en/data-and-analysis/WDR-2007.html].

Potential Conflicts of Interest

U.S. foreign policy goals sometimes contradict U.S. counternarcotics policy goals. By the same token, U.S. counternarcotics policy goals sometimes complicate other U.S. foreign policy goals. Such decisions result from a natural weighing of foreign policy priorities that are inevitable in a complex reality of conflicting interests. The following section describes and evaluates foreign policy issues that some argue are at odds with counternarcotics policies.

Iran. The U.S. government maintains a policy of having no direct contact with the government of Iran. Nevertheless, Iran is saddled with a drug use and trafficking problem that many say could have lasting societal consequences and affect U.S. counterdrug interests. Sharing a long, porous border with Afghanistan, Iran is a major transit route for drugs smuggled out of Afghanistan and Pakistan. According to the UNODC, as much as 90% of Afghanistan's opium may be trafficked through Iran. Iran is also a major destination for synthetic drugs manufactured in Europe or domestically. Some anecdotal reports further indicate that local cultivation of opium poppy crops may be resuming after years of negligible production in some parts of the country.[114] In recent years, domestic drug use is also reportedly affecting public health in Iran, inciting a spike in HIV/AIDS trends and an increasing drug addiction.[115] Iran also claims that more than 3,500 Iranian law enforcement personnel have died in clashes with drug smugglers over the past two decades.[116]

Although the State Department reports that "Iran and the United States have expressed similar viewpoints on illicit drugs," U.S. interest in assisting Iran to combat its drug trafficking and use problem appears to be largely overshadowed by several other national security issues, including Iran's nuclear program and military assistance to armed groups in Iraq and Afghanistan, the Palestinian group Hamas, and the Lebanese group Hezbollah.[117] Because of these other, arguably higher-priority, national security issues, the U.S. government maintains no direct relations with Iran and does not participate in bilateral counternarcotics initiatives with Iran. Some have criticized this approach, urging the United States to provide some forms of counternarcotics assistance to Iran, as other countries, including Italy, Turkey, the United Kingdom, and France, have done.[118] Others argue that U.S. (proxied by Swiss) participation with Iran in the United Nations' multilateral Paris Pact group, which aims to facilitate regional cooperation against narcotics trafficking, and U.S. approval of licenses to allow U.S. non-governmental organizations (NGOs) to work on drug issues in Iran is sufficient.

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[114] "Iran's Drug Problem," *Jane's Intelligence Review*, February 2, 2007; U.S. Department of State, *2008 INCSR*, p. 569.

[115] Lionel Beehner, "Afghanistan's Role in Iran's Drug Problem," *Council on Foreign Relations Backgrounder*, September 14, 2006.

[116] U.S. Department of State, *2008 INCSR*.

[117] U.S. Department of State, *2008 INCSR*.

[118] "Iran's Drug Problem," *Jane's Intelligence Review*, February 2, 2007.

Free Trade. Globalization, characterized by reduced trade barriers and greater access to international markets, may not only result in intended trade and economic benefits, it may also have certain unintended consequences. Some analysts argue that one of these consequences is improved access for illicit actors, including drug trafficking organizations, to move their illicit products across borders. These analysts claim, at the very least, that the vast volumes of imports daily flowing in and out of sea, air, and land entry facilities around the world make international drug control more challenging. Other analysts argue that greater international trade flows, and their attendant economic growth opportunities, can provide an incentive for illicit drug producers and traffickers to shift away from dependence on illegal drugs by supporting legitimate economic activities. Tension between these two points of view continues to exist among certain U.S. policy makers, including some Members of Congress.

The North American Free Trade Agreement (NAFTA),[119] which has been in effect since 1994, is one such point of contention. Some policy makers claim that it is facilitating illicit drug trafficking along the U.S.-Mexican border. One pending bill in the 110th Congress, the NAFTA Accountability Act (H.R. 4329), finds that "NAFTA has allowed the increased flow of illegal drugs and controlled substances into the United States from Mexico at accelerated rates."[120] The bill calls for conditioning future U.S. participation in NAFTA on certification to Congress by the U.S. Attorney General that increased imports from NAFTA member countries are not resulting in increased illegal drugs and other controlled substances.[121] In December 2007, the bill was referred to the House Ways and Means Committee.

By contrast, the 1991 Andean Trade Preference Act (ATPA) and its replacement, the 2002 Andean Trade Preference and Drug Eradication Act (ATPDEA),[122] as amended, have offered trade benefits to help drug producing countries in the Andes region combat drug production and trafficking by developing and strengthening legitimate industries.[123] The ATPDEA, which remains in effect but is set to expire on December 31, 2008, exempts some 6,300 Andean products from U.S. import tariffs. According to the 2007 report to Congress on the operation of ATPDEA, the Office of the U.S. Trade Representative found that ATPDEA "continues to have a positive (albeit small and indirect) effect on drug-crop eradication and crop substitution, as well as job growth in export-oriented industries, in the Andean region."[124]

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[119] Available at [http://www.nafta-sec-alena.org/DefaultSite/index_e.aspx?DetailID=78].

[120] Section 2.

[121] Section 3(7).

[122] 19 U.S.C. 3201 et seq.

[123] Countries are Colombia, Ecuador, Peru, and Bolivia.

[124] Office of the U.S. Trade Representative, Third Report to Congress on the Operation of the Andean Trade Preference Act as Amended, April 30, 2007, p. 5, at [http://www.ustr.gov/assets/Trade_Development/Preference_Programs/ATPA/asset_upload_file186_11132.pdf]. Note that quotes are in original.

The War on Terror. Many observers, including some U.S. officials, acknowledge that what the Bush Administration terms the "Global War on Terror" in the wake of the September 11, 2001, terrorist attacks has supplanted the so-called War on Drugs as a top U.S. foreign policy priority. For example, the DEA FY2008 congressional budget submission stated that:

> Following the September 11, 2001 attacks, DOJ and other federal agencies redirected resources from fighting drugs to combating terrorism and improving national security. As a result, additional resources are required for drug enforcement operations, including intelligence and other investigative support, to maintain the momentum of the Federal government's drug enforcement efforts.[125]

Others argue that overall counterdrug resources have expanded since 2001, and that Congress has been especially active in providing new authorities to fight a combined war against drugs and terror. Among these new authorities include (1) DOD's global authority to provide counterterrorism support to law enforcement personnel who are also conducting counternarcotics activities;[126] (2) DEA's authority to pursue drug traffickers who are also terrorists or are providing funding for terrorists, regardless of whether the drugs are destined for the United States or not;[127] and (3) the Department of the Treasury's enhanced set of regulatory restrictions against foreign jurisdictions, foreign financial institutions, and certain classes of financial transactions involving foreign jurisdictions to combat money laundering.[128]

Some, however, find that efforts against the illicit drug trade and counterterrorism are at times in conflict. This has especially been raised as a concern in Afghanistan, where insurgent groups and drug trafficking groups often overlap. 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 or actively involved in the drug trade. U.S. pursuit of counterterrorism and counterinsurgency objectives at the expense of counternarcotics goals, some say, may inherently exacerbate illicit drug trade.

Substate Conflicts. 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 some nations, such as Colombia, traffickers have achieved a status comparable to "a state within a state." In others, allegations of drug-related corruption have focused on high-level officials in the military and federal police, as well as heads of state. In addition, 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 public support

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[125] DOJ, DEA, FY2008 Performance Budget, Congressional Budget Submission, p. 21.

[126] Sec. 1022, P.L. 108-136 (2003).

[127] USA PATRIOT Improvement and Reauthorization Act of 2005 (P.L. 109-177), which amends the Bank Secrecy Act of 1970 at 31 U.S.C. 5318A.

[128] International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, Title III of the USA PATRIOT Act of 2001 (P.L. 107-56).

through a "Robin Hood" image. As a result, some say that standard narcotics policies are likely to "underperform in places with weak governance and conflict."[129]

In the case of Colombia, some critics have argued that counternarcotics efforts, especially aerial eradication campaigns, can have the unintended effect of aggravating the country's ongoing civil conflict. 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. These observers believe that Colombia's enforcement priorities should shift 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.

Poverty Alleviation. According to the Administration's 2006 National Security Strategy (NSS), "helping the world's poor is a strategic and moral imperative."[130] Further, the 2006 NSS states that development "reinforces" U.S. efforts to combat national security threats, and since 2002, the Bush Administration has committed the United States to the goal of doubling the size of the world's poorest economies within a decade.[131] Some analysts, however, argue that current international drug control reduction campaigns may be at odds with the Administration's anti-poverty commitments. For some countries, production of illicit narcotics and the narcotics trade have become an economic way of life that provides a subsistence level of income to large numbers of people from whom those who rule draw their legitimacy. Crop reduction campaigns seek to displace such income and those workers engaged in its production. In this regard, these campaigns may threaten real economic and political dangers for the governments of nations with marginal economic growth. Consequently, some analysts argue that crop reduction programs in low-income countries could lead to greater poverty, especially if substitute incomes are not readily available to those whose income depends on drug production.

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[129] Rubin and Guaqueta, p. 4.

[130] National Security Council, *National Security Strategy of the United States of America*, 2006, at [http://www.whitehouse.gov/nsc/nss/2006/].

[131] National Security Council, *National Security Strategy of the United States of America*, 2002, at [http://www.whitehouse.gov/nsc/nss.html].