

The United States and Certification

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The longest and least fruitful war fought by the United States, the war against drug trafficking, has gone through alternate cycles of acceptance and rejection of drug consumption, always repressing supply and tolerating demand.¹ From their origins at the beginning of this century, this war's policies have been oriented outward; they have been racist,² uncoordinated, without any scientific basis and more founded on policing than public health concerns.³ Today, despite the change in the international situation and the essence of all international relations, the United States still applies strategies that hark back to the Cold War, stepping up demands for foreign cooperation⁴ and increasing spending on this failed battle.⁵ Given the intensification and versatility of drug trafficking, the Clinton administration has increased its unilateral covert activities and pressure on foreign governments without reducing it.

Together with migration, the war against drug trafficking is the main irritant in the increasingly intense, complex relationship between Mexico and the United States. Tensions rise annually for Mexico when two branches of the U.S. federal government, the executive and the legislative,⁶ must decide to certify or not the performance of 30 or so coun-

tries around this issue, based on the 1986 U.S. law.⁷

This decision was born as a means for the Congress to pressure the president, due to "distrust of the executive itself,"⁸ to force Ronald Reagan to report on the use and effectiveness of the extensive resources put into the so-called War against Drugs.⁹ To shift responsibilities, Reagan transferred the weight of this law to producer and transit countries by threatening to suspend all U.S. aid, except that considered humanitarian or directed against drug trafficking, as well as withdrawing U.S. support of international agencies like the World Bank and the International Monetary Fund, to block loans to countries which, in the opinion of the United States, did not "cooperate" appropriately in the war against drugs.

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Domestically, the certification of foreign governments is an outstanding moment in the relationship between the U.S. executive and Congress given that often it is a pretext for the legislators to call in favors or lash out at the president at the same time that they advance their own political careers by presenting themselves as the paladins of the public, which demands an end to drug use. In practice, this behavior creates no specific commitments for congresspersons, and it does get them a considerable number of votes. For this reason, certification is a political asset of the first water which makes it very improbable they will give it up, despite the irritation it provokes.¹⁰

Internationally, because of its proximity, long border and asymmetrical economic relationship with its northern neighbor, Mexico is the country which has been the most involved in this conflict. These reasons are deepening today as its ties to the United States increase and become closer. The current free trade opening, the North American Free Trade Agreement and Mexico's foreign policy shift that now sees the United States as a partner and not a threat all increase the possibility of successfully trafficking in the drugs so highly prized and priced in the United States.¹¹

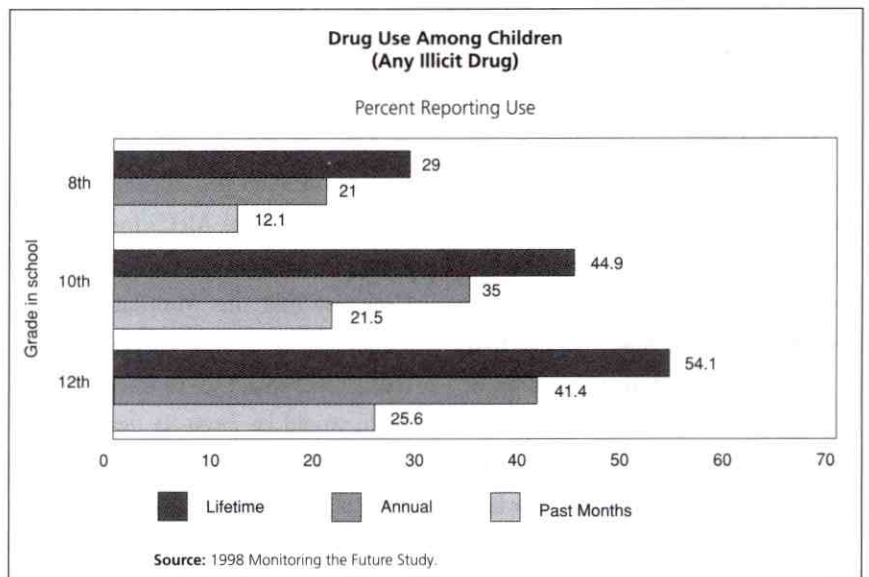
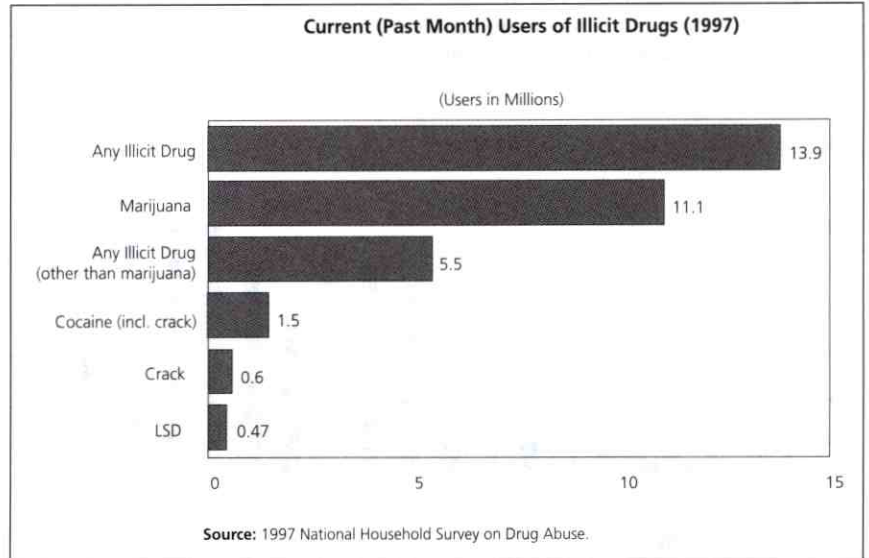
Despite the annual threat of decertification, as a general rule, Mexico has

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always been certified, perhaps because of its strategic proximity or because of the possible economic consequences for U.S. capital invested in Mexico, or even the undesirable results for the U.S. that would come of economic, political and/or social instability on its southern border. General McCaffrey declared that "the decertification of Mexico would be devastating."¹²

The 1999 certification process brought with it some new elements, important for Mexico: U.S. government recognition of the sheer size of consumption, that the corruption inherent in drug trafficking also affects U.S. agencies and departments¹³ and the Canadian border as an area of high intensity trafficking. Also important is the loss of clout of the High Level Contact Group since it moved from the aegis of Mexico's Foreign Relations Ministry and Attorney General's Office to the Ministry of the Interior, particularly with regard to the decisions and implementation of Mexican anti-drug policy. This becomes clear with the new strategy to "seal" the country up by military means and high technology,¹⁴ previously out of reach because of cost and U.S. national security restrictions, problems which have both been miraculously solved. There continues to be a problem, in contrast, in broadening out the armed forces' attributions and share of the job.

For their part, the Latin American governments reject certification dubbing it "unilateral, unfair and the source of tensions."¹⁵ The Interamerican Committee Against Drug Abuse (CICAD), meanwhile, proposes the Organization of American States' Multilateral Evaluation Mechanism (MEM) as "the only valid cer-

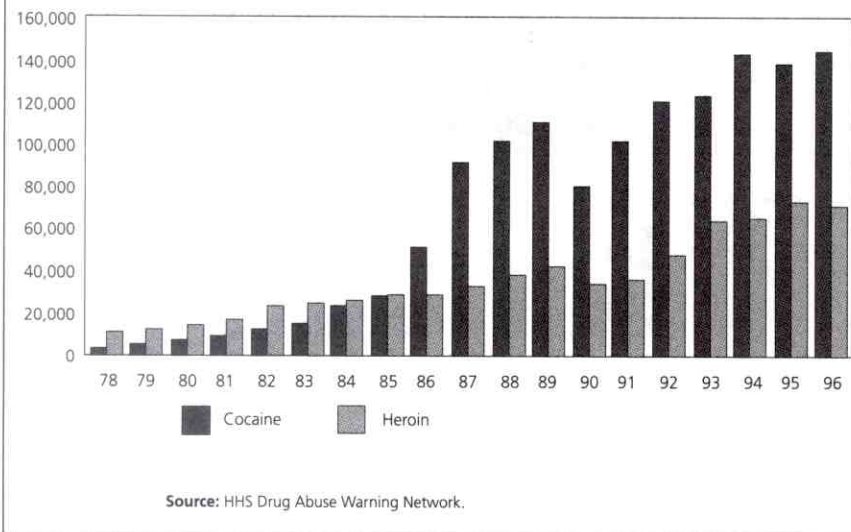


tification process in the hemisphere,"¹⁶ since, although it does not include sanctions, thus prompting distrust on the part of the U.S. government, the Latin Americans give it moral and political weight.¹⁷ They hope that this multilateral instrument will make it possible to bury U.S. certification by the year 2003.

This year, even with the unfavorable opinion of some of the agencies under his authority, President Clinton certified Mexico's complete cooperation, a deci-

sion not shared by Congress. The congressional decision stipulated that the sanctions required by law would not be applied "if at any time after the date of the enactment of this joint resolution the President submits to Congress a determination and certification ... that *the vital national* interests of the U.S. require that the assistance withheld... be provided for Mexico... and that the U.S. not vote against multilateral development bank assistance for Mexico."¹⁸ This

The Health Impact of Drug Abuse
Cocaine and Heroin Hospital Emergency Room Mentions
(1978-1996)



means that Mexico is certified only because of U.S. national interests and therefore will not be sanctioned as stipulated by law for its supposed lack of cooperation. This, when we have now become the United States' second trade partner, when the Mexican government, among other things, has extradited Mexicans, creating a special category of temporary extradition, when Mexico has been 1998's greatest eradicator of marihuana and poppies, when it agreed to militarily "seal" our borders, stimulating military cooperation until recently unthinkable that displaced Foreign Relations Minister Rosario Green (not well liked by U.S. officials due to her firm demand for parity in bilateral dealings, for daring to talk about the possibility of demanding the extradition of Treasury Department agents, suspected of breaking Mexican laws while carrying out, without consultation, their long, unilateral Operation Casablanca,¹⁹ and more recently for having told them, "No certification, no cooperation").

Now, will it be possible to repeal the U.S. certification law? According to U.S. drug czar General McCaffrey, if President Bill Clinton's government can show Congress that this Multilateral Drug Evaluation Mechanism proposed by the OAS is functional, U.S. certification legislation would be given its death certificate.²⁰ However, we believe that the U.S. political system will not give up this instrument for bringing pressure to bear, so very useful for its politicians, and because the MEM "has no teeth," meaning it includes no sanctions.

With regard to this last consideration, it might be pertinent to recall the words of the current U.S. ambassador in Mexico, Jeffrey Davidow, when in 1997, as Assistant Secretary of State for Inter-American Affairs, he told the Joint Hearing Before the Senate Caucus on International Narcotics Control and the Committee on Foreign Relations,²¹ "But I also want to stress, and make this perfectly clear, that certification is the law of the land.

We are committed to it. It is not a perfect instrument, as Senator Grassley said, but it is a useful instrument. *What we are trying to do with multilateralization, in getting other countries to cooperate with us, is designed to complement our national legislation, including certification, not to replace it or other laws that we have.*"²² **NMM**

NOTES

¹ Miguel Ruiz-Cabañas, "La campaña permanente de México: costos, beneficios y consecuencias," Peter H. Smith comp., *El combate a las drogas en América* (Mexico City: FCE, 1992), p. 210.

² Among other pieces of data, "More than 62.5 percent of the inmates in the federal prison system in 1997 were sentenced for drug offenses....A March 1997 study by the Bureau of Justice Statistics (BJS) found that African-American men were nearly twice as likely to be incarcerated in their lifetime (28.5%) as Hispanic men (16.0%) and six times more likely than white men (4.4%)." *National Drug Control Strategy 1999* (Washington, D.C.: ONDCP, 1999), p. 25.

³ In 1979, when drug use was very high, 14.1 percent of the population, or 25 million people, used drugs regularly. The number of drug-related hospital emergencies for that entire year nationwide was 5,000 (cocaine) and 10,000 (heroin). Paradoxically, in 1997, when official statistics put regular drug use lower, at 6.4 percent, or 13.9 million people, the number of hospital emergencies reached 514,347. *Ibid.*, pp. 2 and 10. Nevertheless, 30 percent of the budget for the war against drugs goes to prevention and 70 percent to law enforcement.

⁴ In terms of eradication of crops, confiscation, searches, arrests, extraditions, etc.

⁵ In the 1993 fiscal year, the United States spent a little over U.S.\$12 billion just on the federal level; in 1999, it will spend U.S.\$17 billion. *Ibid.*, p. 9.

⁶ The executive branch must make its decision before March 1 of every year and the legislature, 30 days later.

⁷ That law is based on the precepts of paragraph 490(b) of the 1961 Foreign Assistance Act.

⁸ See the declarations of General Barry McCaffrey, U.S. drug czar, in "Avizoran el fin de la certificación," *Reforma* (Mexico City), 8 March, 1999, p. 10A.

⁹ Here, we should remember the murky Iran-Contras episode.

¹⁰ An additional detail is that until now there is no instrument for verifying the effectiveness of the economic and policing measures established by the Certification Act in curtailing drug trafficking.

¹¹ "Americans Spend \$57 Billion on Illegal Drugs Each Year," *op. cit.*, p. 17.

¹² *La Jornada* (Mexico City), 27 February 1999.

¹³ *Drug Control. INS and Customs Can Do More to Prevent Drug-Related Employee Corruption* (Washington, D.C.: U.S. General Accounting Office, March 1999).

¹⁴ Upon his return from an unexpected personal visit to the United States to negotiate the purchase permits, former Minister of the Interior Francisco Labastida, currently running for the PRI presidential nomination, said on a popular Mexican television interview program, *For Starters*, that the high-tech equipment includes mobile X-ray units and cutting-edge technology for satellite monitoring of Mexican territory with a 900-km.-radius radar system and 300 simultaneous channels with both visual and audio signals.

¹⁵ Uruguayan Alberto Scavarelli, president of the Interamerican Committee Against Drug Abuse (CICAD), said, "We cannot allow anyone to be judge and jury in the certification process. The country where drug traffickers operate easiest, because that is where the drugs are consumed, is attempting to impose an unfair system of economic sanctions instead of supporting government cooperation programs in the fight against drug trafficking. "Busca la OEA terminar en 2003 con el proceso de certificación," *Reforma* (Mexico City), 7 May 1999, p. 26A.

¹⁶ *Ibid.*

¹⁷ To make the mechanism one of assistance and not punitive, they propose creating an OAS controlled and monitored fund to support national law enforcement offices. They would also seek the collaboration of and coordination with other regions, international organizations and the United Nations. *Ibid.*

¹⁸ Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (introduced in the House), 106 Congress, First Session, H.J.Res.35, in the House

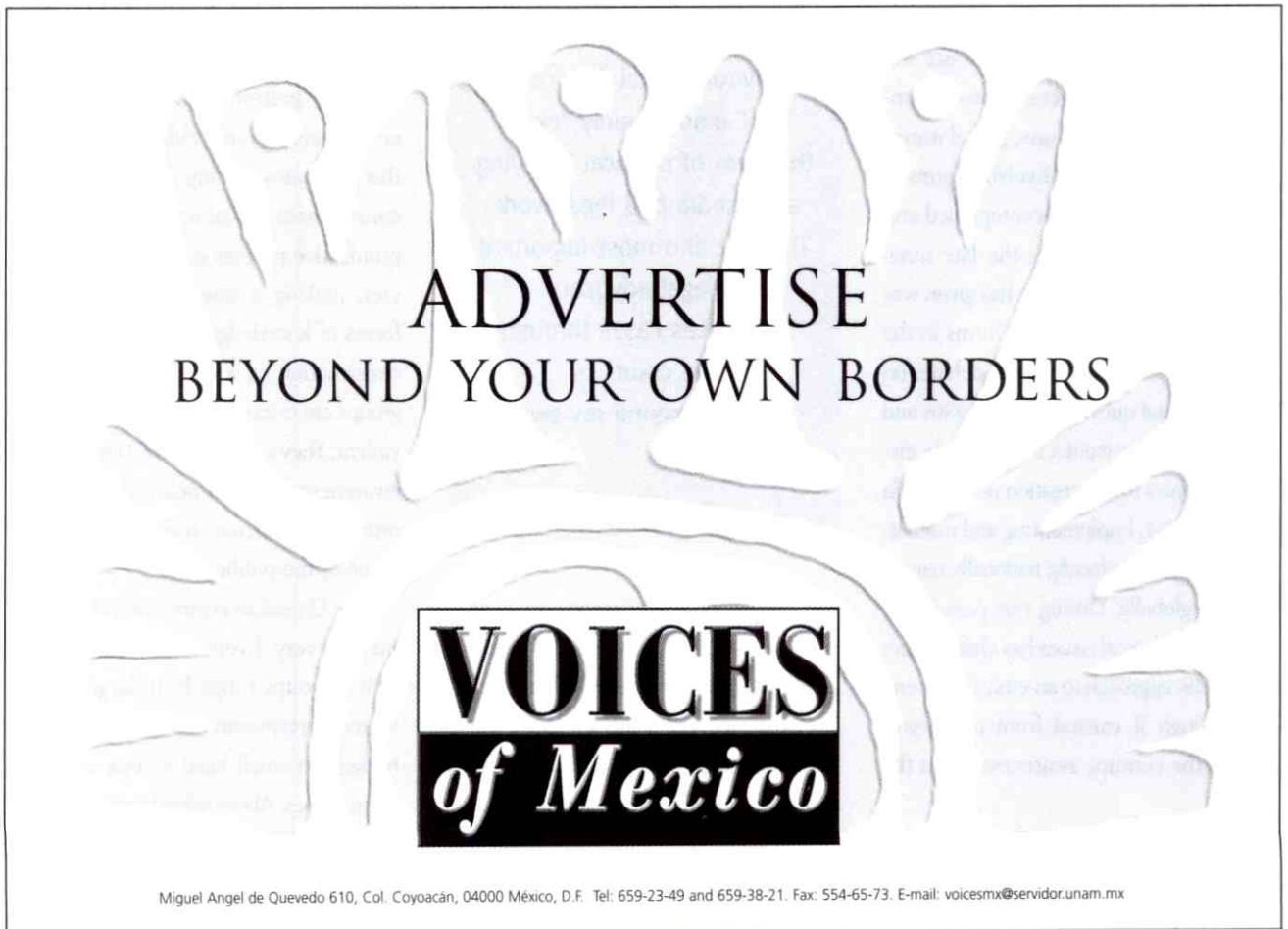
of Representatives, March 2, 1999, H.J.Res.43, March 24, 1999. Sections 1 and 2. Enacted within 30 days after February 26, 1999. [Author's emphasis.]

¹⁹ Operation Casablanca included a series of Treasury Department covert operations involving officials' and drug traffickers' money laundering in several of Mexico's most important banks, during which signed agreements, joint declarations, etc., that "guaranteed" permanent, timely bilateral information exchange were violated. The investigation lasted more than three years and the Mexican government found out about it only hours before it ended.

²⁰ "Avizoran el fin de la certificación," *Reforma* (Mexico City), 8 May 1999, p. 10A.

²¹ United States Senate, 105th Congress, First Session, October 29, 1997.

²² "U.S. and Mexican Counterdrug Efforts Since Certification," (Washington, D.C.: U.S. Government Printing Office, 1998), p. 42. [Author's emphasis.]



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