



Department of Justice

STATEMENT
OF
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ATTORNEY GENERAL OF THE UNITED STATES
BEFORE
THE
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL
UNITED STATES SENATE
CONCERNING
UNITED STATES INTERNATIONAL DRUG CONTROL POLICY
ON
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Mr. Chairman and Members of the Caucus. Thank you for inviting me to address the Caucus today on a subject that I believe to be of vital importance in our ongoing international efforts to effectively deal with what President Bush has rightly called the "scourge" of illegal drugs.

I refer to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which I had the privilege of signing on behalf of the United States last December in Vienna. President Bush will shortly transmit the Convention to the Senate for ratification, and the administration is hopeful that you will move expeditiously in reviewing it and providing for your consent.

This Convention builds upon earlier United Nations actions and upon the numerous bilateral agreements we have entered into with other countries. It will assist in the eradication of drugs and drug-producing laboratories, and in preventing the transportation of precursor chemicals from this nation and others to the drug-producing countries for use in drug production. The Convention will also help to hinder the importation of drugs into the United States, and prevent the transfer of the profits of the illegal drug trade back to the drug cartels. Finally, it will enhance our ability to extradite drug criminals to the United States for trial.

Although we are scoring an increasing number of successes in the international war on drugs, our combined efforts have not kept pace with the international drug cartels. These crime conglomerates are run by shrewd and vicious drug traffickers who take full advantage of the international character of their multi-country activities to shield their illegal activities. These cartel leaders ignore our laws, and in some countries, they have so terrorized the legal system that law enforcement is severely hampered.

This new convention will assist the United States and the more than 100 signatory nations, including most of the drug consuming, as well as drug producing, countries to further challenge these international cartels.

I do not represent that this document is going to, by itself, provide the upper hand to participating nations in our war on drugs. It will, however, provide us with enhanced law enforcement tools and can lead to substantial advances in our international cooperative efforts.

Before going into the provisions of the Convention, I would like to provide the Caucus with some background.

It is important to recognize how significant a development

the Convention represents in the effort to combat illicit trafficking in drugs at the international level. Preparation of the Convention began some four years ago, under United Nations auspices, when the international community came to realize that stronger and broader measures for cooperative law enforcement were required to combat the growing menace of illicit trafficking.

In 1984, the General Assembly of the United Nations unanimously adopted a resolution endorsing the negotiation of a new multilateral convention to complement the two existing international drug control instruments (the 1961 Single Convention on Narcotic Drugs, amended by Protocol in 1972, and the 1972 Convention on Psychotropic Substances). Those two conventions regulated the legal production and distribution of controlled substances but do not provide an adequate legal basis for addressing and controlling the increased threat from illicit drug trafficking across international borders.

Let me take a moment to outline the terms of this historic new agreement.

First, it is important to note that it is a law enforcement convention, providing new tools for police, prosecutors and judges from the signatory nations more effectively to carry out their responsibilities across international borders, while

preserving each nation's sovereignty.

This Convention will lift the veil of bank secrecy, for example, as an impediment to gathering evidence against traffickers and as a method of hiding illicit profits. Governments are also given the tools to seize illicit drug profits and use them, as we do in the United States, to enhance our law enforcement efforts.

Second, all the nations signing the Convention have agreed to exchange evidence of criminal conduct and to extradite accused traffickers so that safe havens are no longer so readily available.

The pact, in effect, tells the cartels that they are not welcome within any of our borders.

Third, the Convention provides for the supervision of the manufacturing and sale of essential and precursor chemicals for the production of illegal drugs, in terms similar to recently-enacted U.S. legislation.

Fourth, commercial carriers are brought into the drug war through requirements that they make certain that commercial consignments are free from drugs. Law enforcement officials are

given the authority to board, search and, if necessary, seize vessels used in the drug business.

Finally, the Convention reaffirms the need for aggressive efforts in crop eradication and demand reduction to complement its law enforcement initiatives.

While the Convention itself does not alter the laws of any nation, it commits the signers to the enactment of new legislation, where necessary, and to increased cooperation among law enforcement officials.

The United Nation's Commission on Narcotic Drugs will provide policy oversight, and the U.N. International Narcotic Control Board will play an important role in monitoring implementation of the Convention.

Full implementation of this Convention would give our children, and their children, the gift of a world cleansed of drug abuse, a world where governments carry out their responsibilities free of the corrupt influence of drug profiteers, a world where the vicious criminals now in control of transnational drug cartels are behind bars, their networks in ruins, and their seized illicit profits plowed back into more effective law enforcement.

I recognize that enactment of this treaty will not happen overnight and will not happen at all without a lot of hard work. This Convention, however, makes it far more likely that the nations of the world will be working together toward a common end.

Specific provisions of the Convention are as follows:

(1) Offenses and Sanctions. -- The Convention requires each party to establish as criminal offenses under its domestic law a comprehensive list of activities involved in or related to international drug trafficking. While such offenses already exist under United States law, their adoption by the international community and enactment into the laws of each party will significantly strengthen and unify the sanctions applicable to international drug trafficking around the globe.

Specifically, the covered offenses include: (i) the production, manufacture, distribution or sale of any narcotic drug or psychotropic substance contrary to the provisions of the 1961 Single Convention or the 1971 Psychotropic Substances Convention; (ii) the cultivation of opium poppy, coca bush or cannabis plant contrary to those earlier conventions; (iii) the possession or purchase of any narcotic drug or psychotropic substance for the purpose of illicit trafficking; (iv) the intentional manufacture, transport or distribution of materials,

equipment, and substances for the purpose of illicit cultivation, production, or manufacture of narcotic drugs and psychotropic substances; and (v) the organization, management, or enhancing of any of the foregoing offenses. Of equal importance, the Convention specifically requires criminalization of drug-related money laundering, including the conversion and transfer of property derived from an offense, as well as the concealment and disguise of its true nature and source.

Parties are also required, subject to their constitutional principles and basic concepts of their legal systems, to establish as criminal offenses: (i) the acquisition, possession or use of property knowingly derived from the above offenses; (ii) possession of equipment, materials and chemicals knowingly used in illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances; (iii) publicly inciting or inducing others to commit the above listed offenses; and (iv) related offenses of conspiracy, participation, and aiding and abetting.

Each party is obliged to take into account the grave nature of the offenses by making these covered acts punishable by sanctions such as imprisonment, fines, and confiscation. The Convention requires courts to take into account factual circumstances making the commission of the offenses particularly

serious, such as the involvement of organized criminal groups, use of violence, victimization of minors, and the fact that the offender holds public office.

Importantly, the Convention provides that the offenses shall not be considered "fiscal offenses," "political offenses," or "regarded as politically motivated" for purposes of its confiscation, extradition, and mutual legal assistance articles.

(2) Jurisdiction. -- Parties are obliged to establish jurisdiction over the covered offenses when they are committed in their territory or on board their vessel or aircraft. Parties may establish jurisdiction over offenses committed by their nationals, committed on board vessels outside their territorial waters which are properly boarded and searched, and with respect to conspiratorial offenses committed outside their territory with a view to commission of a covered offense within their territory.

(3) Confiscation. -- The Convention imposes two sets of obligations regarding confiscation on parties. First, each party is required to enact domestic laws to enable it to seize, freeze, and forfeit all manner of property derived from or used in the drug offenses. Second, the Convention requires each party to assist another party upon request to identify, seize, freeze, or forfeit property within its territory that was used in or is the proceeds of an offense that occurred in the territory of the

requesting party. These dual obligations to forfeit drug proceeds and instrumentalities represent a major step forward in removing the profits of illegal drug trafficking from the hands of the traffickers.

Of further importance, the confiscation article requires parties to enable their courts or other competent authorities to order the production or seizure of bank, financial and commercial records necessary to trace, identify, seize, and forfeit proceeds and instrumentalities of drug trafficking. In this connection, it specifies that parties shall not decline to act on the grounds of bank secrecy.

In addition, while acknowledging that the disposition of confiscated property and proceeds is a matter of domestic law, the Convention contemplates agreements between the parties for either contributing the value of confiscated property to inter-governmental bodies specializing in the fight against illicit drug traffic, or sharing the proceeds and property with other parties on a regular or case-by-case basis.

(4) Extradition. -- The Convention amends existing extradition treaties between parties to include drug and money laundering offenses as extraditable offenses and provides that they shall be extraditable offenses between states that do not make extradition conditional on an extradition treaty. While

although almost all United States extradition treaties include within their scope drug trafficking offenses, many do not include drug-related money laundering offenses. This provision will, therefore, have an important impact on our bilateral extradition relations.

The United States had hoped to include a broad obligation to extradite one's own nationals in this article. Unfortunately, there was overwhelming opposition from the northern European countries that, for either political or legal reasons, would not accept any provision on the extradition of their nationals, even a hortatory provision. Thus, the article contains no provision on the extradition of nationals. The article does, however, obligate a party to submit the case to its competent authorities for the purpose of prosecution when it refuses to extradite an offender because the offender is one of its nationals or because the offense occurred on its territory or on its vessel or aircraft.

(5) Mutual Legal Assistance. -- The Convention provides a treaty obligation to provide mutual legal assistance to other parties in investigations, prosecutions or other judicial proceedings in relation to covered offenses. Such assistance includes, inter alia, the taking of evidence, service of documents, executing searches and seizures, examining objects and sites, providing bank, financial and business records, and

identifying and tracing proceeds and instrumentalities of crime. Other forms of mutual legal assistance may be provided as allowed by the domestic law of the requested party.

Significantly, the Convention also eliminates bank secrecy as a ground for refusing a request for mutual legal assistance.

To the extent necessary, the Convention amends existing mutual legal assistance treaties to apply to offenses covered by the Convention, thereby including money laundering in the context of illegal drug trafficking. As between parties that are not parties to bilateral or multilateral treaties on mutual legal assistance, the Convention provides a basis for according such assistance, and specifies the procedures to be followed in making and executing requests. Requests may be refused only for limited specified reasons.

(6) Other Enforcement Measures. -- The Convention requires parties to take specific enforcement measures to prevent illicit trafficking across national boundaries. These measures include:

o Controlled Deliveries at International Level

Each party is encouraged to allow a known shipment of narcotics to pass through its territory without immediate arrest or seizure in order to trace the

onward movement of the consignment and to identify higher levels of trafficking organizations.

o Commercial Carriers, Mails, Free Trade Zones, and Ports

Parties are required to suppress the use of commercial carriers and the mails for narcotics trafficking.

Parties must also make efforts in their free trade zones and ports that are no less rigorous than those applied elsewhere in their own territory.

o Traffic by Sea

The Convention, consistent with the international law of the sea, authorizes a party with reasonable grounds to suspect that a vessel is engaged in illicit trafficking, to board and search that vessel with the authorization of the flag state.

o Diversion of Chemicals

Parties are obliged to prevent the diversion of precursor chemicals at the national level and to cooperate at the international level.

o Eradication and Demand Reduction

Parties must prevent the illicit cultivation of and eradicate plants containing narcotic or psychotropic substances. Similarly, demand reduction as an integral

• drug control strategy is given appropriate emphasis.

o Other Measures

Parties must establish direct channels of communication among law enforcement authorities; assist in locating and identifying suspects, drugs proceeds and properties and monitor the import and export of narcotic drugs and psychotropic substances.

Regional and Multilateral Drug Control Efforts

The United States already participates in a number of efforts to increase the level of international cooperation among law enforcement officials. The more formal efforts include our participation in the International Drug Enforcement Conference (IDEC) and the Organization of American States Inter-American Drug Abuse Control Commission (CICAD).

The United States also seeks cooperation in less formal settings. The United States Department of Justice and its components, particularly the Drug Enforcement Administration, in conjunction with the Department of State, at the request of particular countries, sponsor training programs and seminars on law enforcement techniques. Obviously, efforts at cooperation must continue on a country-to-country level, as well as on a person-to-person level. I am always heartened when I hear of the

positive reception our agents and attorneys in the field receive in response to their requests for assistance.

Among the oldest of the multilateral conferences is the Franco/American/Canadian/Italian Conference. This Conference was begun in 1971 as the Franco/American Working Group to respond to the French Connection heroin rings of the 1970s. Canada and Italy attended meetings for years and finally became members of the Conference. Multilateral narcotics operations are a regular topic of discussion. The next meeting will be this coming October. This will be an ideal forum in which to address the growing incidence of cocaine trafficking taking hold in Europe and Canada.

We are also very enthusiastic about the Italian-American Working Group on Organized Crime Narcotics Trafficking. Established in 1984 pursuant to meetings of the two countries' Presidents, by the Department of Justice, and the Italian Ministry of Grace and Justice, it has met twice a year and most recently met this past April to discuss drug-related and organized crime issues concerning our countries. We have concluded a number of agreements with the Italians on such issues as joint investigations, information sharing, and extradition.

We have long engaged in a special bilateral program with the Government of Pakistan. As an example, at the eighth meeting of

the Joint Working Group on Narcotics of the Pakistan/United States Commission, the Government of Pakistan expressed an interest in our precursor control program. The United States has offered Pakistan assistance to develop chemical monitor programs to restrict the illegal diversion of essential chemicals.

Initiated under the auspices of the United Nations, Heads of National Drug Law Enforcement Agencies (HONLEA) meetings have emphasized cooperation at the operational level of drug enforcement. The universal interest in improving global drug enforcement capabilities developed in these meetings have served to support broader U.N. drug control efforts such as the Convention. Each year, regional conferences are held for Asia, Africa, Mid-East and Europe, Latin America, and Caribbean. The United States regularly sends representatives to these meetings. One interregional, i.e. worldwide, HONLEA was convened in June 1986 in Vienna, Austria. The Latin American and Caribbean regional HONLEA held in Lima, Peru in September 1988 was the most recent session. DEA Administrator John Lawn headed the U.S. Delegation.

IDEC

The International Drug Enforcement Conference, known as IDEC, is the most prominent and productive forum for regional cooperation for narcotics enforcement in the Americas. Partly as

a result of IDEC resolutions pushing for chemical control, virtually every IDEC member nation has instituted legislation requiring controls on the movement of precursor chemicals, including our Chemical Diversion and Trafficking Act passed last year.

The United States hosted the most recent IDEC conference in April of this year in which 19 member nations and seven observer delegations participated. President Bush addressed the conference, the first time a Head of State has ever addressed the conference, highlighting the leadership role the United States has assumed.

IDEC concentrates on developing and implementing regional enforcement strategies. In 1988, thirty nations participated in the "IDEC Initiative," a month long multilateral effort in which participants exchanged intelligence, stepped up jungle laboratory and airstrip destruction patrols, and intensified vessel, cargo and aircraft monitoring scrutiny.

The results were encouraging. Over 8.5 metric tons of cocaine and 228 metric tons of marijuana were seized; 3.3 million opium poppy plants were eradicated; 31 cocaine laboratories were destroyed; thousands of gallons of precursor chemicals were confiscated; 7 airstrips were destroyed; and more than 1,700 arrests were made; and almost \$4 million in cash was seized.

The unprecedented cooperation enjoyed among the participants from police agencies throughout the Americas and Europe has prompted IDEC to plan future coordinated operations. Working groups are in place and operational plans are being developed for a similar 1989 campaign. Obviously, the related details are sensitive and cannot be made public. The United States intends to fully contribute to these proposed operations, while being mindful that the strength of IDEC rests in the equal partnership of all member nations.

OAS/CICAD

The Organization of American States Inter-American Drug Abuse Control Commission, known by the acronym CICAD, at its meeting in La Paz on March 14-17, planned a ministerial-level summit meeting of drug officials for late this summer. The summit is a United States initiative, spearheaded by former Senator Paula Hawkins, the head of the United States delegation to CICAD. Among the topics to be addressed at this summit are ways of improving law enforcement cooperation among the thirty-plus member nations of the OAS and ways to reduce demand for drugs in the region.

CICAD is also sponsoring a legal development project designed to assist members to investigate and prosecute major

narcotics traffickers. That project has two components. First, a group of experts will draft legislative proposals for changes in both substantive and procedural criminal laws. Second, the project will conduct training seminars and workshops for judges and prosecutors. The project is focusing its attention initially on drafting legislation or the regulation of precursor chemicals and legislative changes to modernize mutual legal assistance and extradition statutes.

EXTRADITION STATISTICS

Finally, Mr. Chairman, I would like to provide some international extradition statistics from cases handled by the Department of Justice Criminal Division on behalf of both state and federal prosecutors. All U.S. requests for extradition are coordinated by that Division.

Our extradition record is one of which we are justly proud. Once the Criminal Division is called upon to catch a fugitive who has fled overseas, the odds are that he will be caught and returned. Departmental extradition records for the thousands of fugitives whose return the United States has sought during the last 15 years from more than 250 foreign jurisdictions show that only one percent of the foreign fugitive cases handled by the Criminal Division were closed because extradition was finally and unequivocally denied by the foreign jurisdictions and two percent because we were unable to locate the fugitives. Those records

further show that almost one-third of the fugitives we sought were wanted for drug trafficking offenses. Even they, the fugitives who are the most difficult to extradite because of their great resources, were able to persuade the foreign jurisdictions to deny our extradition requests in only about 6% of the cases.

Requests are currently outstanding for approximately 280 drug fugitives. Those open cases include situations in which the person has been found extraditable but is serving a prison sentence in the foreign country; cases in which the request is still being processed; and cases in which the fugitive has yet to be located. Assuming the disposition rate for these cases remains stable, close to one-third will return under formal orders of extradition; 16% will return voluntarily to avoid extradition proceedings; 13% will be deported; and 7% will be arrested either in or attempting to enter the United States. In other words, experience causes us to believe that we will be able to obtain the return of more than two-thirds of the fugitives, without regard to where they may have gone.

The disposition of the remaining cases will reflect an assortment of outcomes. For instance, about 10% of our extradition cases are closed by withdrawal of the request for extradition for various reasons (death of the witness, plea bargain, technical difficulties with the indictment, etc.) and

approximately 7% of the cases are closed because the fugitive died before we could obtain his return. However, the bottom line, as I previously noted, is that only about 6% of the drug trafficking cases ends with a final denial of extradition, and only about 2% of the traffickers are never located.

Our most active treaty partner is Canada, which accounts for about one-fifth of all extradition cases. Following Canada, the United States most often seeks the return of fugitives from Great Britain, Colombia, Costa Rica, and Mexico.

Approximately 60% of all extradition requests are made on behalf of federal prosecutors with the remaining 40% being made on behalf of state and local jurisdictions. Because most crimes of violence are prosecuted by state and local prosecutors and not by the federal government, the majority of the extradition requests for such offenders was made on behalf of the states. However, the federal government makes more requests for drug offenders than the states do. The remaining fraud, embezzlement, forgery, and other non-violent, non-drug cases are fairly evenly divided between state and federal prosecutions.

Mr. Chairman, it has been my pleasure to address you today, and I am prepared to try to answer any questions you might have.