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105TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 105–10

DISAPPROVAL OF DETERMINATION OF PRESIDENT REGARDING MEXICO

MARCH 10, 1997.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GILMAN, from the Committee on International Relations, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.J. Res. 58]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997, having considered the same, report favorably thereon with an amendment and recommend that the joint resolution as amended do pass.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

SECTION 1. DISAPPROVAL OF DETERMINATION OF PRESIDENT REGARDING MEXICO.

Pursuant to subsection (d) of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), Congress disapproves the determination of the President with respect to Mexico for fiscal year 1997 that is contained in the certification (transmittal no. 97–18) submitted to Congress by the President under subsection (b) of that section on February 28, 1997.

SEC. 2. WAIVER OF REQUIREMENT TO WITHHOLD ASSISTANCE FOR MEXICO.

(a) WAIVER.—Notwithstanding subsections (e) and (f) of section 490 of the Foreign Assistance Act of 1961, the requirement to withhold United States assistance and to vote against multilateral development bank assistance contained in such subsection (e) shall not apply with respect to Mexico until March 1, 1998, if at any time after the date of the enactment of this joint resolution, the President submits to Congress a determination and certification described in subsection (b) of this section.

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(b) DETERMINATION AND CERTIFICATION.—A determination and certification described in this subsection is a determination and certification consistent with section 490(b)(1)(B) of the Foreign Assistance Act of 1961 that the vital national interests of the United States require that the assistance withheld pursuant to section 490(e)(1) of such Act be provided for Mexico and that the United States not vote against multilateral development bank assistance for Mexico pursuant to section 490(e)(2) of such Act.

SEC. 3. RULE OF CONSTRUCTION.

For purposes of section 490(d) of the Foreign Assistance Act of 1961, this joint resolution shall be deemed to have been enacted within 30 calendar days after February 28, 1997.

SEC. 4. CONSULTATIONS WITH THE CONGRESS.

(a) CONSULTATIONS.—The President shall consult with the Congress on the status of counter-narcotics cooperation between the United States and each major illicit drug producing country or major drug-transit country.

(b) PURPOSE.—

(1) IN GENERAL.—The purpose of the consultations under subsection (a) shall be to facilitate improved discussion and understanding between the Congress and the President on United States counter-narcotics goals and objectives with regard to the countries described in subsection (a), including the strategy for achieving such goals and objectives.

(2) REGULAR AND SPECIAL CONSULTATIONS.—In order to carry out paragraph (1), the President (or senior officials designated by the President who are responsible for international narcotics programs and policies) shall meet with Members of Congress—

(A) on a quarterly basis for discussions and consultations; and

(B) whenever time-sensitive issues arise.

BACKGROUND AND PURPOSE

Section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) (hereinafter referred to as "section 490") requires the imposition of sanctions on any "major illicit drug producing country or major drug transit country" that is not certified by the President by March 1st of each year as having "cooperated fully with the United States" in anti-drug matters during the preceding year. Mexico has been determined by the Secretary of State to be a "major" drug producing/transit country, and, accordingly, is subject to sanctions unless it is certified each year pursuant to this procedure.

The sanctions required to be imposed on a country that is not certified pursuant to section 490 are: (1) bilateral U.S. assistance to that country is to be withheld, and (2) the United States is to vote against loans to that country in multilateral development banks. Section 490 further provides that the requirement to impose sanctions on a particular country may be waived if, by March 1st of each year, the President certifies that it is in the "vital national interests of the United States" to not impose the sanctions.

Section 490 permits Congress to disapprove presidential certifications made under this section if it enacts a joint resolution to that effect within 30 calendar days after receipt of the certification. The effect of enactment of such a disapproval resolution is to impose sanctions on the country in question notwithstanding the President's certification.

On February 28, 1997, the President determined and certified to Congress (transmittal no. 97–18) that Mexico, being a major drug producing and transit country, had "cooperated fully with the United States" in its anti-drug efforts during the previous year.

By enacting H.J. Res. 58, as reported, Congress would disapprove the determination of the President with respect to Mexico for fiscal year 1997—with the effect of giving Mexico a "failing grade" in its anti-drug cooperation in the previous year. Under section 490, once Mexico is "decertified" it would be subject to sanctions (i.e. withholding of U.S. assistance and mandatory U.S. opposition to multilateral development bank assistance). However, H.J. Res. 58, as reported, provides the President authority to prevent such sanctions from taking effect if he determines and certifies to Congress that the "vital national interests" of the United States require that these sanctions not be imposed. The resolution, as reported, also requires the President to consult on at least a quarterly basis with the Congress on the objectives and strategies of U.S. anti-drug efforts with all major producing and transit countries.

The Committee takes the extraordinary step of seeking to "decertify" Mexico precisely because that country's full cooperation is singularly and absolutely indispensable to U.S. anti-drug efforts.

However, the recent revelation that Mexico's senior law enforcement official (General Jose de Jesus Gutierrez Rebollo) has been taking bribes from and conspiring with the head of one of that country's most powerful drug cartels (Amado Carrillo Fuentes) for as long as seven years demonstrates that the effectiveness of U.S.-Mexican counternarcotics cooperation has been thoroughly undermined. The Gutierrez Rebollo scandal, although extraordinary, is hardly an isolated example of corruption in Mexico's law enforcement. Indeed, the fact that his American counterparts were unaware of Gutierrez' history—and did not know for two weeks that he had been arrested—leads the Committee to conclude that U.S. officials lack the barest facts upon which to judge Mexico's cooperation.

The Committee notes that the standard for "certification" set by section 490 of the Foreign Assistance Act of 1961 is deliberately high: that a "country has cooperated fully". The mere appearance of cooperation is no substitute for the real thing. Taking into account the widespread corruption (highlighted by the recent Gutierrez revelation); the impunity with which several massive cartels are able to operate; the complicity of many in law enforcement agencies and the courts; and the lack of action in apprehension and/or extradition of drug kingpins, the Committee regrettably concludes that Mexico has fallen far short of meeting the standard of full cooperation.

The Committee weighed many troubling facts when considering H.J. Res. 58, including:

Gen. Gutierrez was well briefed on U.S. anti-drug efforts. He had access to the most sensitive intelligence collected by Mexican authorities about the drug syndicates operating in the country. He was familiar with law enforcement operations designed to bring them to justice. Members of Gutierrez' staff have been relieved of their responsibilities, casting doubt on key U.S. interlocutors. U.S. and Mexican officials assume that all ongoing operations may have been compromised.

Seven hours after the President's "certification" of Mexico was made public, Mexico's attorney general issued a statement that law enforcement officials had allowed Humberto Garcia Abrego, a re-

puted money launderer and brother of convicted drug kingpin Juan Garcia Abrego, to walk free from police custody. Indeed, it is apparent that several Mexican officials deliberately freed Humberto Garcia Abrego and that their superiors deliberately withheld news of his release from their U.S. counterparts. This single episode is a poignant example of the widespread corruption that exists in Mexican law enforcement.

Thomas Constantine, Administrator of the U.S. Drug Enforcement Administration (DEA), told a congressional committee on February 25, 1997, that "Historically, corruption has been a central problem in DEA's relationship with Mexican counterparts. In short, there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship." According to press reports, Constantine has asserted that the damage done by the Gutierrez betrayal appears to be worse than that done by the U.S. spy Aldrich Ames.

Efforts to combat widespread corruption and bring criminals to justice have been ineffective. In January 1997, agents of Mexico's Federal Judicial Police may have warned Amado Carrillo Fuentes of an impending raid, allowing him to escape. The Mexican government takes credit for firing 1,200 officials for corruption, but not one of these individuals has been successfully prosecuted. U.S. extradition documents cite evidence in a single case that the attorney general and 90 percent of the police, prosecutors and judges in Tijuana and the State of Baja California are on the payroll of the Arellano-Felix cartel. Although the U.S. Department of Justice has submitted provisional warrants for the arrest of Mexican drug kingpins, only one—Juan Garcia Abrego, a dual national—has been sent to the United States to face justice. In addition, drug-related arrests in Mexico are down dramatically in the last four years (11,283 in 1996 compared to 27,577 in 1992).

According to the DEA, 70 percent of the cocaine entering the United States transits Mexican territory. Mexican cartels have filled the void created by the collapse of the Cali cartel by setting up their own coca supply sources in Bolivia and Peru. Despite an apparently increased level of production and transit, Mexico's cocaine seizures in 1996 are less than half what they were in 1991 (23.8 metric tons in 1996 compared to 50.3 metric tons in 1991).

Finally, a new deadly threat has emerged in just the last several years. Mexico's criminal syndicates have used their decades of experience smuggling cocaine, heroin, and marijuana to open a new front against the United States: the production and trafficking of methamphetamine. The DEA reported in February 1996 that "criminal organizations from Mexico, deepening their involvement in methamphetamine production and distribution in the United States, have radically reshaped the trade. With access to wholesale supplies of precursor chemicals on international markets * * * these groups can manufacture unprecedented quantities of high-purity methamphetamine in large labs both in Mexico and across the border in California."

The failure of the Administration's international narcotics strategy is evidenced by the chaos in the anti-drug efforts in Mexico that has continued since the President's decision. Moreover, a double-standard is clearly apparent in light of the decertification of Co-

lombia despite the outstanding efforts of the honest and courageous Colombian National Police. These factors further justify a reversal of the ill-advised and unjustified certification of Mexico.

COMMITTEE ACTION

H.J. Res. 58 was introduced on March 3, 1997, by Representative E. Clay Shaw, Jr. (for himself, Mr. Mica, Mr. Bachus, Mr. Hunter, Mr. Watts of Oklahoma, Mr. Traficant, Mr. Foley, Mrs. Myrick, Mr. McCollum, Mr. English of Pennsylvania, and Mr. LaTourette) and referred to the Committee on International Relations.

On March 6, 1997, the Committee held a mark-up of H.J. Res. 58. The following representatives of the Executive branch agencies were available to answer questions posed by members of the Committee:

Ambassador Robert Gelbard, Assistant Secretary of State for International Narcotics and Law Enforcement;

Ambassador Jeffrey Davidow, Assistant Secretary of State for Inter-American Affairs;

Barbara Larkin, Assistant Secretary of State for Legislative Affairs;

James E. Milford, Acting Deputy Administrator, Drug Enforcement Administration.

ROLLCALL VOTES

Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. The Committee's only vote in this regard is set out below:

Rollcall Vote on Favorably Reporting H.J. Res. 58, disapproving the certification of the President under section 490(b) of the Foreign Assistance Act regarding foreign assistance for Mexico during FY97 (3/6/97):

The following members voted "aye": Mr. Gilman, Mr. Goodling, Mr. Bereuter, Mr. Smith, Ms. Ros-Lehtinen, Mr. Ballenger, Mr. Kim, Mr. Chabot, Mr. Sanford, Mr. Campbell, Mr. Fox, Mr. McHugh, Mr. Blunt, Mr. Moran, Mr. Brady, Mr. Hamilton, Mr. Gejdenson, Mr. Payne, Mr. Andrews, Mr. Menendez, Mr. Brown, Ms. Danner, Mr. Capps, Mr. Wexler, Mr. Kucinich, Mr. Rothman, and Mr. Clement.

The following members voted "no": Mr. Burton, Mr. Rohrabacher, Mr. Martinez, Ms. McKinney, and Mr. Sherman.

27 Members voted "aye." 5 Members voted "no.'

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

The Committee adopts the cost estimate of the Congressional Budget Office, set out below, as its submission of any required information on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt required by clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.J. Res. 58 as reported by the Committee: Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations and among the several states); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth with respect to H.J. Res. 58 as reported by the Committee the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 7, 1997.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.J. Res. 58, as ordered reported by the House Committee on International Relations on March 6, 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Joseph C. Whitehill.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.J. Res. 58—Joint resolution disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997

CBO estimates that the resolution would have no significant impact on the budget of the federal government. H.J. Res. 58 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) and would impose no costs on state, local, or tribal governments.

H.J. Res. 58 would overturn the President's determination that Mexico is cooperating fully with the United States or is taking steps on its own to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The resolution, however, would permit the President to waive the sanctions required by law against Mexico should he determine and certify that it is in the vital national interests of the United States to do so.

Since the President has determined that Mexico is cooperating with the United States, CBO assumes that the President would waive any sanctions against Mexico if the resolution is enacted.

The CBO staff contact for this estimate is Joseph C. Whitehill. The estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

JURISDICTIONAL ISSUES AND OTHER MATTERS

The following letter was received from the Chairman of the House Committee on Banking and Financial Services.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, March 10, 1997.

Hon. NEWT GINGRICH,
Speaker, The Capitol,
Washington, DC.

DEAR MR. SPEAKER: I am writing concerning House Joint Resolution 58, as amended by the Committee on International Relations, legislation disapproving the certification of the President under sec-

tion 490(b) of the Foreign Assistance Act of 1961 (FAA) regarding foreign assistance for Mexico during fiscal year 1997. The legislation falls under the jurisdiction of the Committee on Banking and Financial Services under Rule X of the Rules of the House of Representatives relating to international finance.

House Joint Resolution 58 expresses Congressional disapproval of the President's certification to Congress that the Government of Mexico has "fully cooperated" with U.S. anti-narcotics efforts during the last fiscal year. Section 490 of the FAA permits Congress to disapprove presidential certifications made under this section by the enactment of a joint resolution. H.J. Res. 58 disapproves of the President's certification but provides that the resulting de-certification may be waived if the President determines and certifies to Congress that the "vital national interest" of the United States so require.

De-certification of Mexico would invoke Section 490(a) of the FAA, which requires the withholding of fifty percent of U.S. assistance allocated to a country in the event that the President has determined it is a major illicit drug-producing country or a major drug-transit country. Under section 481(e)(4)(D) of the FAA, foreign assistance is defined to include financing provided by the Export-Import Bank of the United States. Section 490(a) of the FAA also requires the Secretary of the Treasury to instruct the U.S. Executive Director of each multilateral development bank to vote against any loan or utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country. These provisions fall within the jurisdiction of the Banking Committee relating to international finance.

In this regard, on January 16, 1997, the Government of Mexico prepaid in full all $13.5 billion of its outstanding obligations under the February 21, 1995 agreements providing U.S. emergency economic support funds, more than three years ahead of schedule. In addition to full repayment of principal, Mexico paid $1.4 billion in interest, representing a profit of $580 million to the American taxpayer and a corresponding reduction in the U.S. budget deficit.

As of December 1996, outstanding loans, credits, and guarantees provided to the Government of Mexico by other U.S. agencies include: (1) approximately $2.2 billion outstanding in total actual exposure (including loans, guarantees, insurance, rescheduled loans, and collections for non-payment) to the Government of Mexico and its parastatals by the Export-Import Bank; (2) $2.4 billion in guarantees outstanding through the Department of Agriculture's Commodity Credit Corporation on obligations due from Mexican banks to U.S. banks or exporters; and (3) $11.4 million in loans outstanding to the Government of Mexico from the U.S. Agency for International Development.

Understanding that the resolution may be scheduled for consideration by the House later this week, I request that the Banking Committee be discharged from any consideration of H.J. Res. 58 without prejudice.

Sincerely,

JAMES A. LEACH, *Chairman.*

The following materials are included for the interest of Members:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 5, 1997.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We understand that on March 6, the Committee on International Relations intends to mark up legislation pertaining to the President's recent certification that Mexico is cooperating fully with the United States in anti-narcotics efforts. We opposed this certification, and are writing to request that you include language that requires the Administration to report to Congress regularly on its plan of action for anti-drug cooperation between the United States and Mexico for each year. We want to work with you in putting together a package which we believe can gain substantial bipartisan support.

Drug trafficking is a serious problem that the United States and Mexico share; fighting it therefore requires a shared effort and shared responsibilities. Mexico is a friend and ally of the United States, and we commend the well-intentioned efforts of the Mexican people who are committed to fighting the drug trade. However, despite our close relationship with our neighbor, we disagree with the certification of Mexico as an ally in our war on drugs. The clear evidence of failures throughout the Mexican system responsible for fighting this war—the government, military and police—demands that the United States change what we are doing and try something else.

Mexican prosecutors, police chiefs and politicians who challenge the drug cartels are being assassinated. The vast majority of marijuana, cocaine and psychotropic drugs in the United States come through Mexico. We've got to send a message that what we're doing just isn't working. The status quo is unacceptable. Recent events make it clear that certifying Mexico at this time is the wrong signal to send to the drug kingpins. It says business as usual can continue.

In the light of the above, we urged the President last week to decertify Mexico but to waive sanctions as long as this waiver is accompanied by comprehensive bilateral anti-narcotics efforts that include measurable targets for reducing the flow of drugs into the United States. As your committee considers legislation to this effect, we request that you include a requirement that the Administration report to Congress through regular consultations—similar to the peacekeeping consultations currently required by law—on its bilateral efforts with Mexico and other governments in the region to achieve tangible progress in the fight against drugs. Such consultations should include information on the Administration's annual plan to action for anti-drug cooperation with Mexico, as well as the specific objectives and measurable targets to be sought each year.

We believe that close consultation with Congress on the Administration's specific plans to address the drug problem confronting the United States and Mexico is essential, and would help us and our Mexican partners take the tough steps necessary to stem the hem-

orrhage of drugs into our country. The American people are interested in results, not more empty promises.

As you know, the fight against drugs requires resources. Consequently, we should also encourage the Administration to define what steps and resources are necessary to fight an effective battle against the druglords and cartels.

We appreciate your consideration of our views as to what should be included in legislation pertaining to the Mexico anti-drug certification. Achieving closer consultation on the Administration's anti-drug plan of action will ensure regular review of the progress we are making and enables us to increase our effectiveness—in conjunction with the Mexican Government—in reducing the drug trade and protecting our children. We look forward to working with your committee as we address this serious issue.

Sincerely,

RICHARD A. GEPHARDT,
Democratic Leader.
DAVID E. BONIOR,
Democratic Whip.

[Presidential Determination No. 97–18]

THE WHITE HOUSE,
Washington, DC, February 28, 1997.

Subject: Certification for major narcotics producing and transit countries.

MEMORANDUM FOR THE SECRETARY OF STATE

By virtue of the authority vested in me by section 490(b)(1)(A) of the Foreign Assistance Act of 1961, as amended, ("the Act"), I hereby determine and certify that the following major drug producing and/or major drug transit countries/dependent territories have cooperated fully with the United States, or taken adequate steps on their own, to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances: Aruba, The Bahamas, Bolivia, Brazil, Cambodia, China, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Panama, Paraguay, Peru, Taiwan, Thailand, Venezuela, and Vietnam.

By virtue of the authority vested in me by section 490(b)(1)(B) of the Act, I hereby determine that it is in the vital national interests of the United States to certify the following major illicit drug producing and/or transit countries: Belize, Lebanon, and Pakistan.

Analysis of the relevant U.S. vital national interests, as required under section 490(b)(3) of the Act, is attached. I have determined that the following major illicit drug producing and/or major transit countries do not meet the standards set forth in section 490(b) for certification: Afghanistan, Burma, Colombia, Iran, Nigeria, and Syria.

In making these determinations, I have considered the factors set forth in section 490 of the Act, based on the information contained in the International Narcotics Control Strategy Report of 1997. Because the performance of each of these countries/dependent terri-

tories has differed, I have attached an explanatory statement for each of the countries/dependent territories subject to this determination.

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Attachment.

STATEMENT OF EXPLANATION—MEXICO

The Government of Mexico's (GOM) 1996 counter-drug effort produced encouraging results and notable progress in bilateral cooperation. President Zedillo has declared the major drug trafficking organizations, and the corruption they foster within governmental structures, to be Mexico's principal national security threat. He has intensified the country's counter-drug effort, in keeping with international human rights norms, both through legal reforms and operationally, through the expanded participation of the nation's military services.

Drug seizures and arrests increased in 1996. Mexican authorities seized 23.8 mt of cocaine, 383 kgs of heroin, 1015 mt of marijuana, 171.7 kgs of methamphetamine and 6.7 mt of ephedrine (its chemical precursor), and destroyed 20 drug labs. Police arrested 11,283 suspects on drug-related charges. Authorities arrested several major traffickers: Juan Garcia Abrego, Gulf cartel leader and one of the FBI's "Ten Most Wanted" fugitives; Jose Luis Pereira Salas, linked to the Cali and Juarez cartels; and Manuel Rodriguez Lopez, linked to the Castrillon maritime smuggling organization.

The Mexican Congress passed two critical pieces of legislation which have armed the GOM with a whole new arsenal of weapons to use to combat money laundering, chemical diversion and organized crime. The GOM established organized crime task forces in key locations in northern and western Mexico in cooperation with U.S. law enforcement. In an effort to confront widespread corruption within the nation's law enforcement agencies, former Attorney General Lozano dismissed over 1250 federal police officers and technical personnel for corruption or incompetence, although some have been rehired, and the GOM indicted two former senior GOM officials and a current Undersecretary of Tourism. He also sought to expand cooperation with the United States and other governments.

The United States and Mexico established the High-Level Contact Group on Narcotics Control (HLCG) to explore joint solutions to the shared drug threat and to coordinate bilateral anti-drug efforts. The HLCG met three times during 1996 and its technical working groups met throughout the year. Under the aegis of the HLCG, the two governments developed a joint assessment of the nar-

cotics threat posed to both countries which will be used as the basis for a joint counter-drug strategy.

U.S.-Mexican bilateral cooperation on drug law enforcement continued to improve in 1996, particularly in the areas of money laundering, mutual legal assistance, and criminal investigations. The USG provided training, technical, and material support to personnel of the Office of the Mexican Attorney General (PGR), the National Institute to Combat Drugs (INCD), the Mexican Treasury, and the Mexican armed forces. The Government of Mexico established the important precedent of extraditing Mexican nationals to the United States under the provision of Mexico's extradition law permitting this in "exceptional circumstances." This paves the way for further advances in bringing fugitives to justice. Both governments returned record numbers of fugitives in 1996.

Even with positive results, and good cooperation with the U.S. and other governments, the problems which Mexico faces remain daunting. The Zedillo Administration has taken important beginning steps against the major drug cartels in Mexico, and towards more effective cooperation with the United States and other international partners, but the strongest groups, such as the Juarez and Tijuana cartels, have yet to be effectively confronted. The level of narcotics corruption is very serious, reaching into the very senior levels of Mexico's drug law enforcement forces, as witnessed by the February 1997 arrest of the recently-appointed national counternarcotics coordinator. President Zedillo acted courageously to remove him as soon as the internal Mexican investigation revealed the problem, but this has been a set-back for Mexico's anti-drug effort, and for bilateral cooperation.

Mexican police, military personnel, prosecutors, and the courts need additional resources, training and other support to perform the important and dangerous tasks ahead of them. Progress in establishing controls on money laundering and chemical diversion must be further enhanced and implemented. New capabilities need to be institutionalized. Above all, the GOM will have to take system-wide action against corruption and other abuses of official authority through enhanced screening of personnel in sensitive positions and putting into place ongoing integrity controls.

While there are still serious problems, and a number of areas in which the USG would like to see further progress, the two governments have agreed on the parameters of a joint approach to combat the narcotics threat, and are at work on developing this strategy. The drug issue will remain one of the top issues in the bilateral agenda and will be one of the main issues discussed during President Clinton's planned visit to Mexico in April.

SECTION-BY-SECTION ANALYSIS

Section 1. Disapproval of determination of President regarding Mexico

Section 1 would disapprove the President's certification pursuant to section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 229j), transmitted to Congress on February 28, 1997, (transmittal no. 97–18), that Mexico had "cooperated fully with the United States" in anti-drug efforts the previous year. Section 490 provides that enactment of this section within 30 calendar days after receipt of the President's certification will have the effect of withholding bilateral U.S. assistance to Mexico and requiring the U.S. representatives to multilateral development banks to vote against any loan or other utilization of funds of such institutions to or for Mexico.

Section 2. Waiver of requirement to withhold assistance for Mexico

Section 2 permits the President to waive the imposition of sanctions otherwise required to be imposed on Mexico as a result of enactment of section 1 if he certifies that doing so is required by the "vital national interests of the United States." The intent of this section is to provide the President similar authority to that accorded under section 490(b)(1)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(b)(1)(B)). This "vital national interests" waiver is nearly identical to the alternative certification under section 490(b)(1)(B) that the President could have made on February 28th in lieu of certifying that Mexico had "cooperated fully" with U.S. anti-drug efforts. The Committee intends that this waiver authority be used, in particular but not exclusively, to ensure that the provision of any and all forms of United States anti-drug assistance to Mexico (including training, supplies and other related support for the police and armed forces) will not be interrupted as a result of enactment of section 1 of this resolution.

Section 3 provides that the resolution shall be deemed to have been enacted within 30 calendar days after February 28, 1997. This ensures that the resolution will be legally effective even if it is enacted after the 30-day period provided by section 490(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(d)) has expired. The Committee decided that this rule of construction is necessary because a planned congressional recess during the 30-day period following February 28, 1997, may preclude final congressional action on resolution prior to expiration of that period.

Section 4 requires the President to consult with Congress on the status of counter-narcotics cooperation between the United States and each major illicit drug producing country or major drug-transit country. Such consultation is to be carried out by the President (or by senior officials designated by the President who are responsible for international narcotics programs and policies) no less often than once each quarter, and more frequently whenever time-sensitive issues arise. It is the intent of the Committee that the Committee on International Relations will have the lead role within the House of Representatives organizing the consultations pursuant to this section, and that the Chairman and Ranking Minority Member of the Committee will be among those Members of Congress con-

sulted. The consultation procedure is intended to encourage the Executive Branch to discuss with Members of Congress, on a regular basis, U.S. international counternarcotics strategy.

ADDITIONAL VIEWS OF THE HONORABLE LEE H. HAMILTON

I supported H.J. Res. 58 because I agreed with the sponsors that Mexico's counter-narcotics record did not reach the level of full cooperation on counter-narcotics that the law requires. I am compelled, however, to submit additional views because I do not believe that the Committee report adequately addresses this legislative action in the context of the entire U.S.-Mexico relationship, including Mexico's unprecedented degree of cooperation with the United States on counter-narcotics issues.

THE PRESIDENT'S DILEMMA: THE U.S. RELATIONSHIP WITH MEXICO

Section 490 of the Foreign Assistance Act of 1961 sets a high standard for certifying a major illicit drug producing or transit country: cooperating fully with the United States, or taking adequate steps on its own, to comply with counter-narcotics objectives in the 1988 UN Convention or bilateral agreements over the last year.

The President had three choices. First, he could find Mexico had fully cooperated or had taken adequate steps on its own to comply with international counter narcotics agreements. Second, he could have decertified, putting the U.S. relationship with Mexico at risk and threatening future full cooperation on counter-narcotics initiatives. Third, the President could have decertified but exercised the vital national interest waiver that the law provides. These latter two options posed difficulties for the President because they raised concerns about how international diplomatic and financial interests would interpret and react to the decision.

It is clear to me that the current situation with Mexico illustrates that the law itself simply does not work. It is a blunt instrument that provides the President only limited and inflexible options that may conflict with broader U.S. interests.

The United States and Mexico have a relationship that goes beyond narcotics issues. We share a 2000 mile border, and Mexico is our third largest trading partner. The peso crisis in late 1994 underscored to many of us how much the U.S. and Mexico are tied together. Mexican cooperation on a wide range of issues, including fighting drugs, is critical to the United States. The President had to weigh the best way to get this critical cooperation from Mexico, given the breadth of issues in our relationship and Mexican opposition to the certification statute. The President faced a very difficult decision.

On February 28, 1997, the President certified that Mexico met the law's tough standard. Many of us disagree with that judgment. Given the high standard of the law and the very mixed record of Mexico in cooperating, I do not believe it is possible to find "full cooperation" or "adequate steps." At the same time, we want to

avoid the imposition of sanctions on Mexico. We do not want to undermine United States relations with Mexico. We also cannot ignore the law. Many Members, like me, support H.J.Res. 58 because it reflects that middle ground.

THE POSITIVE RECORD

At the highest levels of the Mexican government there is a recognition of the seriousness of the problem and a strong desire to attack it. In the past year, President Zedillo and the Mexican government took important steps forward in narcotics control. Narcotics seizures increased from 1995 levels. The Government of Mexico established important tools to fight narcotics trafficking. A new body of laws has been enacted—permitting asset forfeiture, criminalizing money laundering, and improving controls of precursor chemicals. Organized crime task forces were set up in northern and western Mexico. Finally, Mexico worked more closely than ever with the United States, establishing a High Level Contact Group on Narcotics to increase the necessary cooperation.

MEXICO DOES NOT MEET THE FULL CERTIFICATION STANDARD.

But the statute calls for full cooperation or adequate steps, and until it is repealed, we must follow its requirements. Mexico's record over the past year does not meet the standards the law sets out.

The Government of Mexico has not fully cooperated with the United States. Mexico has not extradited a single Mexican national on drug charges, despite at least 52 U.S. drug-related extradition requests. According to the State Department report, the "Government of Mexico failure to provide either the financial resources or immunities and other protection for U.S. law enforcement personnel, has undermined the ability of [bilateral task forces] to fulfill their mission [to dismantle cartels]."

In terms of the mechanics of the working relationship on counternarcotics issues, U.S. ships and airplanes must wait thirty days to receive refueling and overflight permission from the Mexican government. This delay impedes U.S. counternarcotics efforts. U.S. law enforcement agents are not allowed by the Government of Mexico to carry their weapons across the border with Mexico when they are pursuing cases. Unlike many other countries in the hemisphere, Mexico has not signed a maritime agreement with the United States. Such an agreement would allow U.S. agents to intercept suspected drug traffickers in Mexican waters. The United States and Mexico need to reach a better understanding on these sensitive but critical aspects of cooperation.

Mexico also has not "taken adequate steps on its own" as required by the statute. In recent weeks, the United States has been presented with evidence of high level corruption in Mexico. The arrest of General Gutierrez, the top Mexican drug official, for ties to narcotic activity, causes serious concern. I am pleased that the Government of Mexico arrested him, but the evidence of his alleged illicit activities may go back to at least 1993. There are many other examples of official corruption that have been detailed by U.S. Drug Enforcement Administration officials in Mexico, and that corruption is limiting U.S. agents effectiveness in Mexico.

The Government of Mexico has not dismantled any major drug trafficking organizations. Its arrest record is mixed. In fact, on the day of the U.S. certification decision, Mexican authorities released an individual wanted in Mexico on drug charges. And despite approval in 1996 of important legislation relating to asset forfeiture, new investigative tools, and money laundering, implementation of these laws has been lacking.

A NATIONAL INTEREST WAIVER

I want the Congress to send two messages with this resolution. The Congress is disapproving full certification because we simply cannot find that the standards of the statute have been met. But we favor the use of a national interest waiver. We want no penalties to attach to the disapproval of certification. The United States national interest here is clear: we want to reduce the flow of drugs and we want a stable and cooperative Mexico. It is my view that a national interest waiver is more likely to elicit further cooperation from Mexico than would imposition of sanctions.

It is worth noting that the United States has disagreements with all of our major allies and friends—we have disputes with the Europeans, with the Canadians, and with the Japanese. Just as we must work to ensure that particular disagreements on particular issues do not undermine our overall relationships the European community, or Canada, or Japan, so we must work to make sure this decision on this issue does not have that effect with Mexico.

THE CONSULTATION SECTION

The President had a tough call to make, but the lack of adequate consultation between the Executive Branch and the Congress on this subject contributed to Congress" negative reaction to the President's decision to certify.

This resolution seeks to remedy that situation by requiring the Executive to meet with Members of Congress quarterly to discuss narcotics control objectives. The International Relations Committee, charged with oversight related to the certification statute, should take the lead for Congress in these consultations. This consultation procedure will encourage the Executive Branch to discuss with Members of Congress, on a regular basis, details about agreements between the United States and other governments related to the fight against drugs.

The consultation language would require regular discussion between the Executive Branch and Congress on the status of counter-narcotics cooperation between the United States and each major illicit drug producing or drug transit country. It provides a mechanism for airing difficult issues and tough choices with the Congress. The mechanism is an attempt to find a way the Executive and the Congress can work together to better achieve the goals and objectives we all share with respect to United States counter-narcotics strategy.

CONCLUSION

I have taken this opportunity to submit additional views and written in this detail, because I want to be sure that my colleagues,

the President, and the Government of Mexico understand that I did not reach this position easily. I understand and can appreciate why and how others might come out differently.

LEE H. HAMILTON,
Ranking Democratic Member.

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