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The Illegal Drug Trade: An International Foreign Policy Imperative

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The new prominence of transnational crime as a threat to the security of nations is exemplified in the international campaign to combat the illegal drug trade. Increasingly, this trade is becoming a pivotal issue for foreign policy practitioners seeking to protect their state's national interests. Thus, the traditional instruments of foreign policy are being used to promote international measures designed to deal with this trade.

This paper aims to demonstrate the extent to which the illegal drug trade has become a foreign policy issue and argues that all states, including South Africa, are required to respond to it. On the one hand, failure to act decisively is likely to earn pariah status, much as human rights abuses and support of terrorism have isolated certain states who stray from the internationally accepted norms. On the other hand, the most important reason is one of enlightened self interest: to act against this trade is to protect the integrity of one's own state and society.

The International Framework

In 1986, former US President Ronald Reagan moved to put drug smuggling on the international diplomatic agenda by signing National Security Decision Directive No. 221, making drug enforcement a national security priority. Since then, the framework for an international control regime has continued to evolve, particularly since the cessation of Cold War hostilities downgraded the importance previously attached to geopolitical/conventional security threats. In 1990, the United Nations General Assembly (UNGA) established the United Nations International Drug

Control Programme (UNDCP) which has the responsibility for co-ordinating all UN drug control activities, promoting the implementation of the relevant treaties and providing effective leadership. At its 17th special session devoted to international drug control in 1990, the UNGA proclaimed the years from 1991 to 2000 as the 'United Nations Decade against Drug Abuse'. In its Political Declaration of 23 February 1990, the UNGA called upon member states to give greater priority to action against drug abuse and illicit trafficking.

The 1961 *Single Convention on Narcotic Drugs*, the 1971 *Convention on Psychotropic Substances*, the 1972 *Protocol Amending the Single Convention* and, more recently, the 1988 *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (in force since 11 November 1990), have underpinned the UNDCP's work. The 1961 Convention brought together and extended international controls on the manufacture, trade and illicit traffic in narcotic drugs (such as heroin, cocaine and cannabis) and established measures for the treatment and rehabilitation of drug addicts. Similar measures to control drugs such as LSD and amphetamines were introduced by the 1971 Convention. The 1988 Convention provides for international co-operation against all aspects of drug trafficking. Some 112 countries have ratified or acceded to the 1988 Convention, 133 to the 1971 Convention and 148 to the 1961 Convention.¹ South Africa is a signatory to these Conventions but has yet to accede to the most important - the 1988 Convention.

The 34-article 1988 Convention urges that courts be empowered to make available or to seize bank, financial or commercial records - overriding bank

secrecy laws in such cases. It effectively seeks to bar all havens to drug traffickers, in particular by providing for:

- the extradition of drug traffickers
- mutual legal assistance between states on drug-related investigations, and
- the transfer of proceedings for criminal prosecution.

Also under this Convention parties commit themselves to eliminate or reduce illicit demand for drugs. The aim of the Convention is to provide uniform laws against organised criminal organisations such as drug syndicates.

However, it is simply not enough for states to become signatories to the Convention. In order to give effect to its principles and objectives, signatory states need to ensure that their national legislation conforms with the provisions of the Convention. International pressure is, therefore, not only aimed at ensuring that states become signatories to the Convention, but more importantly, that they enact the necessary national legislation and give effect to the Convention's aims - and therein lies the rub. This emphasis on domestic legal parameters is normally reserved for international conventions which govern postal services, telecommunications or shipping - a shared international concern whose provisions states are expected to facilitate and to observe minimum standards of conduct or control. However, this same universal consensus is increasingly being built up in respect of the drug trade.

The international community's concern for the drug trade has been illustrated in the growing prominence of statements and policy directives from the larger powers. An example of this was the June 1996, Lyon Summit in France, which issued the following Chairman's Statement:²

Point 9. We are determined to intensify our efforts in order to fight against any kind of drug trafficking and all forms of criminality in connection with it, including money-laundering. We therefore urge all states to fully comply with their obligations under international conventions ... and are ready to strengthen our co-operation with all countries involved in this fight against drugs ...

Point 10. Transnational organised crime: While not entirely new, this phenomenon threatens (all) nations, industrialised and developing countries. Therefore we commit ourselves to: mobilise our full resources and influence to combat this danger ...'

The statement also includes a comprehensive

summary of the various measures being promoted in international fora in an attempt to deal with drugs in particular, and transnational organised crime in general. A plethora of international regulations have sprung up representing global interests on these issues. In order to give effect to these broader international measures, domestic legislation, judicial processes and financial controls need to be adapted and brought into line with the developing international framework.

Compliance with anti-drug trade measures is increasingly a fundamental component in the relations between countries and those which fail to comply with the status quo are likely to be excluded from other international monetary and trade arrangements.³ Given the concern for and sensitivities relating to the rights of sovereignty, even in South Africa (as the recent arms trade furore have shown), the international campaign faces the stumbling block of having to delicately cajole co-operation without being seen to be dictating the terms of international relations. Failure to handle this sensitively may play into the hands of the traffickers at the expense of societies and political systems worldwide.

Foreign Policy

The drug problem comprises not only drug use and addiction but the scale of the international criminal business that exploits them. More fundamentally, transnational criminal organisations threaten the integrity of states' financial and political institutions. As a result, no country can afford to ignore the global anti-drug trade campaign led by the United States and the countries of the European Union. Some may cynically dismiss the developed world's calls for greater control as somewhat hypocritical. After all, they provide the bulk of the consumer market for the trade. This however, fails to recognise the broader political and economic consequences of the trade not only for the societies which it affects but also for the integrity of global state and financial systems which are harmed by money-laundering, corruption and the creation of new local markets.

The reality and severity of these threats has shifted the issue of the drug trade onto the international foreign policy agenda in an effort to preserve stable economic, political and social relations.

The shift from a broad multilateral international concern to a specific bilateral foreign policy issue between states is evident in the simultaneous decline in voluntary contributions to the UNDCP and increase in the resources devoted to combating

this trade on a bilateral basis. The UNDCP's budget (90% of which is made up of voluntary member state contributions) in 1994 it stood at US\$100 million, but this decreased to US\$70 million in 1995.⁴ This trend, it seems, reflects the increased 'ownership' of international drug control policies by individual states as a national foreign policy goal and security issue.

This is evident in the United States where the Office of National Drug Control Policy's budget for 1996-97 showed a dramatic 25.4% increase in the allocation for international programmes over the 1995-96 budget.⁵ While this only constitutes some US\$401 million of the total US\$15.1 billion budget dedicated to combating drugs in the US,⁶ it remains some 5-6 times larger than the UNDCP's total budget, suggesting that the US believes it can achieve more on a bilateral basis than through a multilateral forum.

In terms of the *Foreign Assistance Act*, the US President must certify whether each major drug-producing or transit country has co-operated fully to combat the trade or has taken adequate steps on its own to meet the goals and objectives of the 1988 UN Convention. Denial of certification carries important foreign assistance sanctions: US law calls for most foreign assistance to be stopped to nations in this category, as well as a mandatory US vote against lending by six multilateral development banks, such as the Inter-American Development Bank. The latest decertification list includes Columbia, Afghanistan, Burma, Iran, Nigeria and Syria. Belize, Lebanon and Pakistan were denied certification but received a vital national interest waiver. Mexico narrowly escaped decertification. However, the process of decertification represents one of the less (diplomatically) popular methods by which the anti-drug campaign is influenced since it is viewed as a tool of political blackmail, especially by those states for whom sovereignty is non-negotiable.

Nevertheless, President Clinton has directed the US State Department to raise the certification standards and apply them more aggressively. The stricter standards: *'have sent a very strong signal that we take the international problem more seriously, and we are going to hold foreign countries increasingly accountable for their own performance'*.⁷

South Africa, seemingly bent on pursuing an independent policy in its conduct of international relations, is also subject to this pressure. Thus far, the pressure has been constructively received and applied. However, the greatest danger for the international drug campaign lies in the tarnishing of constructive global efforts such as that of the

UNDCP, by bilaterally driven foreign policies which, arguably, could be construed to be heavy-handed and dictatorial. Should that perception take hold, the global drug control effort could face resistance and become a political football - effectively leaving countries vulnerable to the drug industry.

Money-Laundering

The 1988 UN Convention was the first time an international convention addressed the need to attack international drug money flows. It mandated signatories to criminalise activities connected with money-laundering. However, it is not far-reaching enough in its requirements to ensure that the cartels are unable to move and launder illicit revenue. In order to redress this, the Group of Seven (G-7) nations approved the establishment of the Financial Action Task Force (FATF) in 1989, to make recommendations on money-laundering countermeasures which go beyond the UN conventions.

Action against the illegal drug trade has increasingly focused on cutting off the profits of this industry: The rationale is that if the supplier countries can continue to be supported in pursuing crop eradication, crop substitution and interdiction programmes, while countries simultaneously implement measures to prevent money-laundering, then perhaps the 'squeeze' at both ends of the chain of operation could lead to the collapse of the industry. However, for that to work, the cartels must be prevented from finding refuge in a country where controls do not exist or are weakly applied. Thus, in the future, any country which allows itself to become the weak link in this international campaign is likely to be on the receiving end of international wrath, not to mention the infiltration of syndicates seeking safe havens! The Seychelles was widely condemned in February 1996 for introducing the Economic Development Act (EDA) which in effect provided a safe haven for drug traffickers. The member states of the FATF were called upon to exert pressure on the Seychelles to reverse this Act. The government of the Seychelles has since withdrawn the Act.

Speaking on the 50th Anniversary of the United Nations in 1995, President Bill Clinton emphasised the importance of money-laundering: *'Yesterday, I directed our government to identify and put on notice nations that tolerate money-laundering ... Nations will bring their banks and financial systems into conformity with the international anti-money-laundering standards. We will help them to do so. And if they refuse, we will consider appropriate*

sanctions'.⁸ Similarly at a meeting of Commonwealth finance ministers in Bermuda, in September 1996, the problem of money-laundering again came under scrutiny. The ministers endorsed the new revised recommendations of FATF, which designed a general framework for tackling the problem of money-laundering, covering the role of national legal systems, the role of the financial system and the strengthening of international co-operation. Significantly, the ministers committed themselves to raise international standards across the Commonwealth for combating money-laundering, at least to the minimum set by FATF. Other measures agreed upon included:

- the design and implementation of effective national strategies against money-laundering through the establishment of multi-disciplinary national steering groups, and
- active support for the establishment of regional groups to review progress in implementing anti-money-laundering measures.⁹

South Africa, as a member of the Commonwealth and a party to these discussions will be expected to deliver on these commitments.

The FATF believes that it will have the core of a more effective global regulatory and rigid enforcement mechanism in place by 1998-99. This will allow an examination of the performance of countries as against the recommendations and suggests that countries which are evaluated and found lacking, should expect to face repercussions in their relations with the FATF member nations.¹⁰ South Africa, as a major financial centre in the sub-region has already come under pressure to join the FATF and to take the necessary steps to implement both the FATF's recommendations and those agreed to at the Commonwealth ministers meeting. South Africa's draft money-laundering measures have been welcomed and deemed to be adequate by the FATF.

Linking law enforcement with foreign policy - a phenomenon that dates only to the late 1980's - has perhaps been the single most important factor in targeting the drug cartels and their financial manipulations.¹¹

Arguably, the international campaign could be said to be a timely realisation of the fundamental change in international relations which transnational organised crime has already brought about. It is also a recognition of the dangers of the narcotic drugs trade. For all states but particularly the

developing world, the trade has costly consequences. It is, therefore, in the interest of all states to respond to this threat by fully participating in the international framework, in tandem with the developed world. A state which delays its participation in the international programme will not only be subject to the growing scrutiny of the international community, but will also become an increasingly attractive target of the cartels and syndicates. South Africa needs to begin by acceding to the 1988 Convention. Accession will open the way for UNDCP funding and resources to be channelled to South Africa to develop and implement a national drug strategy master-plan.

That is not to say that the international campaign is driven solely by altruistic motives. Without a reduction in the supply of drugs to Europe and the US, these countries do not believe they can achieve a reduction in demand within their own societies. Thus they have a vital national interest in curbing the worldwide production and traffic. It is in the light of these vital interests that a state should expect to be severely dealt with should it stand in the way of the 'war on drugs'. However, the industrialised nations would be well-advised to seek co-operation rather than confrontation in order to build a global alliance against the drug trade. Emphasis should accordingly be placed on building capacity and skills to combat the trade, multilateral institutions such as the UNDCP should be strengthened. Such measures would address the perception of a bilateral dictation of policies by the leading nations, as well as allow 'sovereignty-sensitive' countries to comply without being seen to have been bullied by 'big brother'.

Having said that, for states on the receiving end of international pressure, the reality is somewhat harsh. The goal of foreign policy is to further the national interests of a state, which in the case of the US, the European Union states and the other developed nations of the world, is to contain the scourge of drugs in their societies. For decades foreign policy was guided by the principles of the Cold War and these alliances. However, the world in 1997 has new priorities, threats and opportunities which must be grasped. As much as the world has changed, so too should states' foreign policy agendas change, to reflect not only the priorities of the nation state but, in an increasingly interdependent world, also those of the broader international community - which most often sets the agenda.

Endnotes

1. As of August 1995. 'The United Nations Drug Control Programme', *Background*

- Brief*, August 1995, Foreign and Commonwealth Office, London.
2. Lyon Summit Chairman's Statement: 'Toward Greater Security and Stability in a More Co-operative World', *US Department of State Dispatch*, June 1996, 7, Supplement No. 2, p.16.
 3. *Ibid.*.
 4. 'United Nations Drug Control Programme', *op. cit.*.
 5. 'The National Drug Control Strategy: 1996', *Global Issues*, 1, 7. Washington DC: Office of National Drug Control Policy, July 1996.
 6. *Ibid.*. The latest 1997-98 total budget is a record US\$16 billion.
 7. Morris S, 'Cleaning up the Money Launderers', *op. cit.*.
 8. McFarlane J & K McLennan, 'Transnational Crime: The New Security Paradigm', *Strategic and Defence Studies Paper*, Working Paper No. 294. Canberra: Australian National University, 1996.
 9. 'Finance Ministers Target Debt, Money Laundering', *Commonwealth Currents*, 4. London: Commonwealth Secretariat, 1996.
 10. Members of the FATF are: Australia, Austria, Belgium, Canada, Denmark, European Commission, Finland, France, Germany, Greece, Gulf Co-operation Council, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.
 11. Andelman DA, 'The Drug Money Maze', *Foreign Affairs*, 73, 4, July/August 1994. Chicago: Council on Foreign Relations.

STATEMENT OF PURPOSE

The South African Institute of International Affairs is an independent organisation which aims to promote a wider and more informed understanding of international issues among South Africans.

It seeks also to educate, inform and facilitate contact between people concerned with South Africa's place in an interdependent world, and to contribute to the public debate on foreign policy.