

1989

United States-Colombian Negotiations on Narcotics Control 1975-1980

Meghan Mary Malloy
College of William & Mary - Arts & Sciences

Follow this and additional works at: <https://scholarworks.wm.edu/etd>



Part of the [International Law Commons](#)

Recommended Citation

Malloy, Meghan Mary, "United States-Colombian Negotiations on Narcotics Control 1975-1980" (1989). *Dissertations, Theses, and Masters Projects*. Paper 1539625531.
<https://dx.doi.org/doi:10.21220/s2-5m9q-nk81>

This Thesis is brought to you for free and open access by the Theses, Dissertations, & Master Projects at W&M ScholarWorks. It has been accepted for inclusion in Dissertations, Theses, and Masters Projects by an authorized administrator of W&M ScholarWorks. For more information, please contact scholarworks@wm.edu.

UNITED STATES-COLOMBIAN NEGOTIATIONS ON NARCOTICS CONTROL
1975-1980

A Thesis

Presented to

The Faculty of the Department of Government
The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of
Master of Arts

by


Meghan Malloy

1989

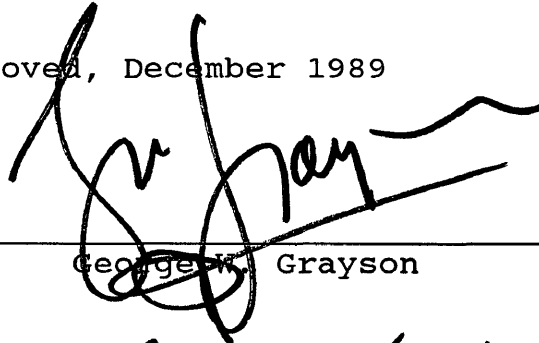
APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of

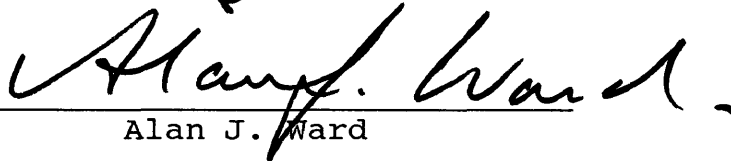
Master of Arts



Approved, December 1989



George W. Grayson



Alan J. Ward



David A. Dessler

TABLE OF CONTENTS

	Page
ACKNOWLEDGEMENTS.....	iv
ABSTRACT.....	v
CHAPTER I. THE DIAGNOSTIC PHASE... ..	2
CHAPTER II. THE FORMULA PHASE.....	22
CHAPTER III. THE DETAIL PHASE.....	38
CHAPTER IV. THE FAILURE OF THE TREATY.....	56
EPILOGUE.....	75
BIBLIOGRAPHY.....	77

ACKNOWLEDGEMENTS

The author wishes to express her appreciation to Professors George Grayson and David Dessler for their reading and criticism of the manuscript. The author is also indebted to Professor Donald Baxter for invaluable counsel throughout the project.

ABSTRACT

The purpose of this thesis is to expose the negotiation process during which the United States and Colombia negotiated a narcotics eradication package during 1975-1980.

A negotiations model called formula-detail was used to examine the various stages of the talks between the two nations. Further, the final chapter evaluates the most important detail of the negotiations, the US-Colombian extradition treaty.

The model illustrated the various stages of the talks and provided insights into the circumstances that influenced their eventual outcome. In addition, the model identified errors in the negotiation process that would later prove to contribute to the demise of the principle detail, the extradition treaty.

The thesis suggests that because US policy-makers could not agree on a domestic narcotics policy, they chose an international drug eradication strategy. The ensuing US formula placed excessive pressure on Third World drug-exporting nations like Colombia. Unfortunately, Colombia did not possess the manpower nor financial resources to implement the negotiated formula. When the Colombian Supreme Court declared the extradition treaty unconstitutional, the formula was essentially obsolete.

Finally, the thesis examines specifically the extradition treaty and portrays an agreement whose failure was predestined by the asymmetry of the preceding negotiation process.

UNITED STATES--COLOMBIAN NEGOTIATIONS ON NARCOTICS CONTROL

1975-1980

CHAPTER I
THE DIAGNOSTIC PHASE

Introduction

Many political scientists have developed theories and models of negotiation. Unfortunately, very few theorists address the obstacles developing countries face when confronted with the overwhelming prospect of negotiating with powerful First World nations. The end result of this asymmetrical negotiation usually relegated the weaker country to a less than optimal outcome. In a recent book, Power and Tactics in International Negotiation, author William Mark Habeeb explores the options developing countries have at their disposal when they negotiate with more powerful counterparts. Habeeb believes that a weaker nation can change the circumstances under which negotiations occur to increase its chances of emerging successfully from negotiations.¹ The formal process on which Habeeb elaborates is called formula-detail negotiation. This chapter will use the formula-detail model and apply it to negotiations between the United States

¹William Mark Habeeb, Power and Tactics in International Negotiation, (Baltimore: The Johns Hopkins University Press, 1988), 71.

and Colombia, to analyze why Colombia would enter into talks with the U.S. on narcotics eradication via an extradition treaty, a subject they had previously been unwilling to discuss.

The Formula-Detail Model

The formula-detail approach was developed by Zartman and Berman in The Practical Negotiator. Unlike game theory or zero-sum notions, these authors posit that the secret of negotiation is to change the perception of conflict and, in the process, change the stakes into items that can be used to benefit both parties. The model identifies three stages in the negotiation process: (1) diagnosis of the situation and the decision to try negotiations; (2) negotiation of a formula or common definition of the conflict in terms amenable to a solution; and (3) negotiation of the details to implement the formula on precise points of dispute.²

All negotiations commence with the decision to actually begin a dialogue for the purposes of solving the conflict and the talks between the U.S. and Colombia were no exception. This "diagnostic" phase, as Zartman and Berman call it, can be the result of several catalysts. In the case of the U.S.-Colombian negotiations, three of these catalysts were present: propitious changes had taken place such that the once-

²William Zartman and Maureen R. Berman, The Practical Negotiator, (New Haven: Yale University Press, 1982), 13, 9.

recalcitrant Colombians were now willing to enter into talks with the U.S.; the goal of negotiations (narcotics eradication) was not unilaterally attainable and thus required a joint decision that could only be arrived at via negotiations; and finally, both sides perceived that they would be better off with an agreement than without one.³ In other words, the U.S. and Colombia had an interest in changing the status quo.

An examination of the diagnostic phase will follow, illustrating both internal and external changes that motivated the Colombians to begin talks. The significance of the negotiations lies in the fact that Colombia had adamantly opposed negotiations throughout the mid-1970's, yet by 1979, had agreed to the extradition treaty.

The Diagnostic Phase

It is significant that a new anti-drug pact was signed between the U.S. and Colombia in 1979. It marked a reversal in the position of Colombia. As late as 1978, then-president Alfonso López-Michelsen stated that Colombia did not have a drug problem--the United States did. According to López-Michelsen, it was the U.S. demand for illegal drugs that caused Colombians to produce and export them. Drug trafficking, he stated, would never have reached such proportions if "a permanent number of customers did not exist

³Ibid., 50, 61, 52.

in the United States who supply large international chains with financing that have their origin in the very same United States."⁴ López-Michelsen was not alone in his accusation that North America was responsible for the drug problem. Another Colombian writer was even more frank in his condemnation of the U.S.: "If the nearly 20 million permanent marijuana consumers did not exist in the United States, it is clear that we would not have grown it nor would we be exporting it."⁵ This "chicken or egg" debate can be partially blamed for the failure of the two countries to work out an agreement prior to 1979. However, despite López-Michelsen's rhetoric, Colombia was, in fact, already negotiating this new treaty. The 1979 agreement was actually an extradition treaty aimed specifically at narcotics traffickers. Since many drug dealers are Colombian nationals, the U.S. believed that this treaty would allow traffickers to be brought to America for trial and imprisonment. After years of dragging their heels in response to U.S. criticism to eradicate their drug production and trafficking, why in 1979, did the Colombians finally come to the table?

⁴Richard B. Craig, "Colombian Narcotics and United States-Colombian Relations," Journal of Interamerican Studies and World Affairs 23 (August 1981): 251.

⁵Richard B. Craig, "Domestic Implications of Illicit Colombian Drug Production and Trafficking," Journal of Interamerican Studies and World Affairs 25 (August 1983): 330.

By 1979, six essential developments persuaded the Colombian government to begin negotiating an extradition treaty with the U.S. aimed at reducing drug trafficking. These developments were powerful enough to induce the stubborn Colombians to admit that they had a serious drug problem and that extradition of their drug-dealing nationals to the U.S. was also in Colombia's best interests. Two of these developments were contained in the internal arena of Colombian politics; the other four were essentially external, and their effects influenced the action of the Colombian government.

Increased Violence Threatened Domestic Order

First, violence and corruption in Colombia had increased to such a degree that domestic stability was threatened. In 1977, Bogota, the capital of Colombia, averaged 50 kidnappings per month. Crimes in the capital could be linked to growing inflation and an unemployment rate of 11.6 percent; however, their sorry economic figures provide obvious reasons why even poorer, rural Colombians began to turn to narcotics as a source of income.⁶ In the first three months of 1979, in the small city of Santa Marta, (population 200,000) the capital of the Guajira province, there were 240 murders. The disorders in Guajira can be blamed directly on the drug trade: the Guajira province is the principal producer of Colombian

⁶Penny Lernoux, "Violence, Inflation Cloud Colombia's Political Future," Washington Post, 9 November 1977, A28.

marijuana.⁷ Clearly, violence was undermining national order.

Besides the murders and kidnappings attributed to the drug mafia, Colombia also had to cope with nine different guerrilla groups. The atmosphere of lawlessness had not only overtaken the rural areas, where most of the guerrilla activity had traditionally taken place; it pervaded the city of Medellín, the headquarters of the infamous Medellín drug cartel; and the coastal cities of Baranquilla and Santa Marta had become as dangerous as the poorly patrolled countryside.

Rumors of police corruption in Colombia were widespread. A retired chief of the country's security police was accused of involvement in the drug trade and one of his underlings was found to be using his official car to transport drugs from Bogota to the coast.⁸ One U.S. official said simply, "A policemen up there [Guajira] is told by the smugglers that he has two choices: he can either get rich from payoffs, or he can get killed. Because a policeman's pay starts at \$46 a month, you can imagine the choice he makes."⁹ Rising inflation, fueled in part by "narco-dollars," and high

⁷Charles A. Krause, "Colombia, with US Backing, Mounts Drive on Drug Traffic," Washington Post, 20 June 1979, A17.

⁸Ron Moreau, "Colombia: The Coke Trade", Newsweek, 20 December 1976, 51.

⁹Everett G. Martin, "Colombian Gold: Guajira Peninsula Becomes Chief Source of Marijuana for US," Wall Street Journal 17 November 1978, 1, 41(E).

unemployment contributed to the violence and corruption. Because both maladies were also linked to the drug trade, it became obvious that, until Colombia was ready to admit its role as one of the world's major drug suppliers rather than blame U.S. demand, corruption and violence would continue to disrupt society.

Economic and Political Implications of Drug Money

Colombia, like most Latin American nations, is ruled by a well-to-do, well-educated oligarchy. Most participants in the drug mafia can hardly be called members of the Colombian upper class. Socially, illicit drug earnings are creating nouveaux rich who are buying and bullying their way into the nation's class-conscious society.¹⁰ Economically, narcotics traffickers and their huge incomes (some \$1.5 billion annually in 1978) contribute to Colombia's growing inflation rate.¹¹ Finally, the violence and corruption associated with Colombia's rapid rise to the world's leading drug exporter was, by 1978, severely disrupting legitimate business. The collapse of the judicial system as well as the high crime rate jeopardized multinational corporations in Colombia. Foreign executives complained of having to compete with local

¹⁰Craig, "Colombian Narcotics," 267.

¹¹Ibid., 266. See also Alfonso Chardy, "Colombia to Attack Traffic in Cocaine," Washington Post, 11 March 1978, A20.

businesses which constantly circumvented the law, doing everything from underinvoicing to reduce taxable income, to running drug smuggling operations of their own. In addition, the fear of mugging or kidnapping contributed to poor working conditions for foreigners.¹²

The ruling elite in Colombia is most threatened by the efforts of the cartel to buy political power. Pablo Escobar, a major figure in the Medellín cartel, hands out cash to the poor, builds low-income housing projects and sponsors sports teams in Medellín. As a result, he has created a loyal following in his native city. Carlos Lehder Rivas, now in jail in Miami for drug trafficking, bought radio stations and newspapers and made substantial contributions to political campaigns. Most of the drug barons have used politics to protect their interests and bribe officials to ignore their illegal activities; since 1983, most of their efforts have been aimed at the judiciary in an attempt to prevent the Colombian government from extraditing suspected traffickers to the United States.¹³ Although it does not appear that these drug kingpins have any political goals beyond protection of their trafficking networks, the oligarchy is alarmed at the

¹²Colombia: How drugs and hot money disrupt business," Business Week, 12 June 1978, 73.

¹³Bruce Michael Bagley, "Colombia and the War on Drugs," Foreign Affairs, 67 (Fall 1988): 77-78.

use of drug money in the political system.

Increased U. S. Demand for Drugs

Three important external developments greatly influenced the decision of the Colombian government to come to the negotiating table. By 1979 cocaine use in the United States had reached unprecedented levels. From 1976 to 1977, the number of 18-to-25-year olds who had used cocaine increased from 13.4 to 19.1 percent. Between 1975 and 1978, the number of high school seniors who had tried cocaine had jumped 20 percent.¹⁴ The rising demand for cocaine sent the street value of the drug soaring to \$800,000 per kilogram of cocaine, which by the time it was sold in the U.S., was only 12 percent pure.¹⁵

The high price of cocaine made it the drug of the rich and famous; rather than deter its use, expensive cocaine became a status symbol. Snob appeal was important in the spread of cocaine use. In addition, cocaine provided a "high" without injection or hallucinations associated with stereotypical drug addition. It was far easier for people to justify snorting cocaine than using heroin, LSD, or similar

¹⁴Congress, House, Select Committee on Narcotics Abuse and Control, Cocaine: A Major Drug Issue of the Seventies: Hearings before the Select Committee on Narcotics Abuse and Control, 96th Cong., 1st sess., 24, 26 July, and 10 October 1979, 13-14.

¹⁵Ibid., 9.

hard drugs. For drug dealers, cocaine was the "ideal" product; unlike marijuana, it was highly addictive, and unlike heroin and LSD, it was socially acceptable. The soaring U.S. demand for cocaine made drug trafficking more profitable than ever before.¹⁶

U.S. Accusations Against Turbay Ayala

The accusation by the United States that members of Colombian presidential candidate Julio César Turbay Ayala's family were involved in drug trafficking received enormous international publicity. CBS's "60 Minutes" revealed that a confidential memorandum to President Carter from Dr. Peter Bourne, his special assistant on drug abuse, charged three prominent Colombian politicians with involvement in narcotics: the Minister of Defense, the Minister of Labor, and, most damaging, the ex-ambassador to the United States and frontrunner in the upcoming elections, Turbay Ayala.¹⁷ Despite the denial by both Turbay and Diego Ascensio, then-U.S. Ambassador to Colombia, of any connections with narcotics traffickers, the allegations persisted. Turbay won the election despite the bad publicity, and in an attempt to silence the critics, he engaged in a much more active drug

¹⁶Lester Grinspoon and James B. Bakalar, Cocaine: A Drug and Its Social Evolution, (New York: Basic Books, 1976), 61-63.

¹⁷Craig, "Colombian Narcotics," 252

eradication program. So embarrassed was the new president by the accusations, that he agreed to cooperate with the United States to curb drug trafficking. In response to Turbay's endeavors, the Carter Administration agreed to lend Colombia \$2.4 million to train 6,500 soldiers that make up the country's drug interdiction forces.¹⁸

The Quita Sueño Treaty

In 1972, the U.S. signed the Quita Sueño treaty with Colombia. In the treaty, the U.S. renounced all claims to three Caribbean reefs: Quita Sueño, Roncador, and Serrana. The reefs had been the subject of a dispute with Colombia since they were discovered to have large deposits of guano in 1869. After the guano was exhausted, the status of the reefs remained in limbo until the expanded search for oil led to successful off-shore drilling. In 1928 Colombia and the U.S. agreed through an exchange of notes, to maintain the status quo pending a final settlement via negotiations.¹⁹

Although a treaty was signed in 1972, the U.S. Senate did not ratify it until 1981, after the extradition had been

¹⁸Charles A. Krause, "Colombia, with US Backing, Mounts Drive on Drug Traffic," Washington Post, 20 June 1979, A17.

¹⁹Congress, Senate, Committee on Foreign Relations, Treaty with Colombia Concerning the Status of Quita Sueño, Roncador and Serrana, report, 97th Cong., 1st sess., 1981, exec. rept. 97-16, p. 1. Please refer to this document for a brief review of Colombia's claim to the reefs.

successfully negotiated. For Colombia, the territorial dispute had become a mini-Panama Canal issue: a small, developing, Latin American nation seeking the return of part of its sovereign territory from the regional hegemon, the U.S. Ratification was delayed because of the entry of a third party into the dispute: Nicaragua, which had also laid claim to the reefs. In addition, the U.S. maintained that because the dispute involved territory, it should be referred to the International Court of Justice. When the U.S. and Colombia began talks about curbing the flow of Colombian drugs to American soil, the treaty became a bargaining chip. In 1978 Jimmy Carter sent a letter to the chairman of the Senate Committee on Foreign Relations, urging the Senate to ratify the treaty. He wrote that ratification would end the longstanding territorial dispute, enhance U.S. Colombian relations, and allow the U.S. an easy exit from the debate without having to deal with Nicaragua, a country whose political situation was careening rapidly out of control.²⁰

The Senate considered the treaty again in December 1979, and endorsed a proposal introduced by Deputy Assistant Secretary of State Samuel Eaton. Eaton called for approving the treaty subject to provisions that ratification neither

²⁰Ibid., 2-5. See also Howard J. Wiarda and Harvey F. Kline, eds., Latin American Politics and Development, 2d ed., (Boulder, CO: Westview Press, 1985), 512, for a brief chronology of US policy in Nicaragua immediately preceding the fall of Anastasio Somoza.

imposed obligations on nor prejudiced the claims of third parties (i.e., Nicaragua). After the U.S. informed the new Nicaraguan government of the latest developments in the negotiations, the situation was delayed again for nearly two years as Nicaragua tried to delay ratification. In a letter which he wrote to Congressman Lee Hamilton on July 14, 1981, Richard Fairbanks, then-Assistant Secretary for Congressional Relations, bluntly stated that "lack of ratification is a major irritant in our relations with Colombia . . . a nation whose cooperation we often seek in other areas."²¹ Further, by 1981, it was no secret that US relations with the Sandinista government in Nicaragua were deteriorating. The same day it received the text of Fairbanks' letter, the Senate Committee on Foreign Relations voted 16 to 0 to ratify the treaty.

While it was not the sole incentive to negotiate, the Quito Sueno issue undoubtedly played a role in Colombia's decision to enter into talks with the U.S. on narcotics eradication that led to the drafting of the extradition treaty. Although relinquishing the reefs was a token gesture, it was evidence that the U.S. was anxious to negotiate. A less subtle development in Mexico, the massive defoliant campaign, provided an obvious and immediate explanation for the rise in Colombian narcotics trafficking and production,

²¹Ibid., 9.

which in turn led to dialogue.

Mexico's Successful Herbicide Program

A more important external development reveals why Colombian narcotics became so lucrative and widespread as to induce the government to negotiate with the United States: Mexico's herbicide campaign. Colombia was not always the leading exporter of illegal drugs to the U.S. On the contrary, Mexico had long assumed that dubious role. Its proximity to the U.S., as well as its vast areas of sparsely populated land, made it ideal for growing opium poppies and marijuana for export to the U.S. By the mid-1970's, Mexico was estimated to supply 70 percent (10 million pounds) of all the marijuana consumed in the U.S. and 80 percent (8 tons) of all the heroin. Further, most of the cocaine coming into the U.S. passed through Mexico.²²

With such a high volume of narcotics originating in Mexico, it is not surprising that the United States applied pressure to eradicate the supply. On September 21, 1969, Mexico launched Operation Intercept; it was billed as the largest peacetime search and seizure operation in the nation's history. In reality, Operation Intercept sprang from economic blackmail, but it was significant in that Mexico admitted it had a drug problem, and that the two nations did schedule more

²²Richard B. Craig, "La Campaña Permanente," Journal of Interamerican Studies and World Affairs, 20 (May 1978): 107.

bilateral talks for the future.²³

In addition to harsh fines for the possession and sale of drugs, the Mexican government also launched a herbicide campaign. Operation Condor was the first anti-drug strategy to involve the use of defoliants. In 1977 alone, 43,915 opium plots and 14,801 marijuana fields were destroyed. Mexican soldiers and federal police confiscated 192 kilograms of opium and dismantled 20 heroin laboratories; Operation Condor was a success. Although opium and marijuana fields continued to be discovered in Mexico, they were smaller in size and more widely dispersed. Operation Condor greatly reduced Mexico's illegal narcotics production, but it had negative repercussions on Colombia.²⁴

As a result of Operation Condor and Mexico's crackdown on drug traffickers, many individuals moved their illicit businesses to Colombia. As Mexico's supply of drugs bound for

²³Ibid., 110-111.

²⁴Richard B. Craig, "Operation Condor: Mexico's Antidrug Campaign Enters a New Era", Journal of Interamerican Studies and World Affairs, 22 (August 1980): 357. Unfortunately, Mexico's successful narcotics eradication was to be short-lived; by 1983 record drug seizures were made along the Texas-Mexico border. (At the time of the US-Colombian negotiations, of course, neither party could have predicted future events.) For an account of Mexican drug production and trafficking in the 1980's, please see Congress, House, Subcommittee of the Committee on Government Operations, Initiatives in Drug Interdiction (Part 1): Hearings before the Subcommittee on Government Operations, 99th Cong., 1st sess., 15 and 16 March; 18 July; and 24 October 1985, 18-25.

the American market dwindled, Colombia's increased. Colombia is a much smaller country than Mexico, but by 1987 supplied 25 percent of all imported refined cocaine.²⁵ Although Mexico's success in drug eradication contributed to the increased production and trafficking of illegal narcotics in Colombia, interesting questions were asked: "Could Colombia implement similar measures to rid itself of drugs? Why hadn't Colombia followed Mexico's lead in reducing its illicit substance production? Regrettably, these questions have not resulted in a successful eradication campaign that could rival Operation Condor.

Role Conception: Mexico and Colombia

Rather than reiterate the obvious differences between the two nations that could have influenced policy choices, a subtle, but nonetheless important element is worth investigating: the role conceptions of Mexico and Colombia. Role conception refers to the part a nation wants to play in the world arena. The United States has made an effort to be seen as the defender of freedom and democracy in the global community. The USSR often claims to speak for the workers of the world. Fashioning a national role is not limited to the superpowers; Third World nations have also attempted to forge

²⁵Bruce Michael Bagley, "The New Hundred Years War? US National Security and the War on Drugs in Latin America," Journal of Interamerican Studies and World Affairs, 30 (Spring 1988): 163.

distinct national personalities for a variety of reasons.

The influx of newly-independent states which resulted from decolonization brought a majority of less developed nations (often called the Group of 77) to the UN General Assembly. Through the UN, the Group of 77 called for the establishment of a New International Economic Order (NIEO), which would result in the reconstruction of the global economy to benefit underdeveloped countries. Developing nations, realizing their majority in these organizations, began to promote their interests against those of Western nations.

The attention garnered by the Group of 77 was not lost on Luis Echeverría, Mexico's president from 1970 to 76. He also sought to use his nation's membership in international organizations to publicize his conception of Mexico's role in world politics. Echeverría believed that Mexico was destined to be regional leader in Latin Amnerica, and he searched for populist solutions to domestic problems while at the same time courting other Third World states into accepting Mexico as their spokesman.²⁶

To assert that Echeverría was concerned with Mexico's international image is an understatement. The continued publicity from international and domestic sources forced Mexicans to face the embarrassing fact that their country had

²⁶George W. Grayson, Oil and Mexican Foreign Policy, (Pittsburgh: University of Pittsburgh Press, 1988), 21-22.

become one of the world's largest heroin producers. On November 7, 1975, a secret meeting was held in Mexico city between General Ojeda Paullada and Sheldon Vance, senior advisor to the Secretary of State. The next day, Ojeda informed Vance and the U.S. ambassador to Mexico, Joseph John Jova, that the use of defoliants in his nation's drug eradication campaign was to begin immediately.²⁷

As explained above, Mexico's decision to use defoliants, although controversial, was effective in eradicating huge amounts of marijuana and opium plants. While Mexico's desire to be the spokesman for Latin America was undoubtedly not the sole motivation for the decision to use herbicides, it certainly contributed to the nation's willingness to acquiesce in U.S. demands that action be taken to stem the flow of narcotics.²⁸ Indeed, Craig writes that Mexico became a signatory to every major drug treaty now in effect, and its attitude towards its role in international efforts to control the flow of illicit drugs was one of pride and commitment.²⁹

The undeniable success of Mexico's herbicide campaign and

²⁷Craig, "La Campaña Permanente," 128.

²⁸See Craig, "La Campaña Permanente," 114-115, for a description of domestic drug use in Mexico. Growing concern about adolescent drug abuse in Mexico also contributed to the decision to use defoliants.

²⁹Ibid., 115.

the favorable publicity generated by its get-tough stance on drug eradication was not lost on the Colombians. Further, the anti-drug efforts gave Mexico a valuable bargaining chip in its relations with Washington, something any Third World nation would envy.³⁰ Finally, with Mexico slowly relinquishing center stage in the drug debate (although only temporarily), attention focused on Colombia, where many dealers had moved their operations and were already filling the gap in production created by Mexico's war on drugs. After 1975, the U.S. began to cite Colombia as the principal supplier to the American market not only of cocaine, but also of marijuana.

Unfortunately, it did not appear that Colombia's role conception was similar to that of Mexico. Colombia, much smaller in area and population than Mexico, had no desire to be a regional leader. Having just emerged from years of partisan violence, Colombia was in no position to be overly concerned with its reputation within Latin America or outside the region.³¹

Conclusion

The six motivators above constitute the diagnostic phase.

³⁰Craig, "Operation Condor," 360.

³¹For an in--depth comparison of the anti-drug campaigns waged in Mexico and Colombia, see Peter Lupsha, "Drug Trafficking: Mexico and Colombia in Comparative Perspective," Journal of International Affairs, 35 (Spring 1981), 95-115.

Previously, Colombia was unwilling to enter into talks with the United States regarding narcotics eradication; however, by 1978, changes in circumstances had led Colombians to admit that they, too, could benefit from bilateral negotiations. These six factors were not the sole reasons that Colombia decided to negotiate, but rather represent an interrelationship of both internal and external developments that coincided with the beginning of bilateral talks. Additionally, the information on role conception can function as a warning that any future formula to eradicate narcotics must take into account the uniqueness of the Colombian situation; a uniform policy for all countries is often impossible. Once the decision was made to try negotiations, both countries had arrived at the next phase: the formula phase.

CHAPTER II
THE FORMULA PHASE

Introduction

After the diagnostic phase has occurred and the two parties have decided to negotiate, the formula phase follows. Having jointly determined that negotiations will benefit both parties, the two nations must then ascertain a framework within which they believe their goals can be attained. This search for general principles begins after both parties have jointly determined that negotiation is both possible and desirable. The single most important element of a formula is a shared perception of the problem--without it, the two sides will remain at a stalemate.¹ As illustrated in the previous chapter, even when the initial dialogue had begun between the U.S. and Colombia, the two parties did not share the same perception of the drug trafficking problem. Only when Colombia refrained from blaming the United States for the predicament and admitted that both nations could benefit from an agreement, was any notable progress made. When the two states realized that joint action on the narcotics dilemma

¹William Mark Habeeb, Power and Tactics in International Negotiation, (Baltimore: The Johns Hopkins University Press, 1988), 30-31.

was crucial, they were more willing to admit that both the U.S. demand for drugs and Colombia's supply of the illicit substances needed to be eradicated.

Zartman states that once the two parties are convinced that a mutually acceptable resolution to their disagreements is possible, they establish a formula governing the issues susceptible to solution.² By 1976-77, the U.S. and Colombia had reached this stage and had begun to search for a formula. In this chapter, the elements that constitute the negotiation model's formula phase will be discussed and will be applied to the 1976-79 U.S.-Colombian negotiations to stem narcotics trafficking.

The Search for a Formula

Two important characteristics that play a vital role in the initial search for a formula are relevance and comprehensiveness; it is imperative that the formula address the dispute and cover as many points of conflict as possible. As the disputants search for a formula, they are motivated to find a way to address the problem directly and extensively. When the parties meet these initial requisites, a final hurdle remains: irreplaceability. No formula, nor the ensuing details that follow, will remain in force and achieve its purpose without this characteristic. Both parties have an

²William Zartman and Maureen R. Berman, The Practical Negotiator, (New Haven, CT: Yale University Press, 1982), 89.

interest in ensuring that the agreed-upon formula is not replaced by another. A formula that obviously gives more to one than to another invites reversal. In its final instance, the formula must motivate the two states to conclude and observe the agreement.³

The essential qualities of the formula phase are simple enough to understand theoretically; however, it is also beneficial to view their practical application. Bagley and Tokatlián use the formula-detail model to evaluate Central American peace initiatives, and their methods provide a guideline for locating the evolution of the formula phase in U.S.-Colombian negotiations. In their 1987 study, Bagley and Tokatlián used the Contadora Group's Document of Objectives for peace in Central America as evidence of a formula.⁴ In the U.S.-Columbian case, an examination of both nation's objectives in their respective drug policies illustrated their goals and expectations. By incorporating both policies and achieving a consensus on the goals of negotiation, the two nations then moved to the next phase: the detail phase.

Search for Formula: The United States

The formula that would later be incorporated into the

³Ibid., 109, 117.

⁴Bruce Michael Bagley and Juan Gabriel Tokatlián, Contadora: The Limits of Negotiation, FPI Case Studies, (Washington, DC: The John Hopkins Foreign Policy Institute, 1987), 26.

negotiation with Columbia in 1979 began at a much earlier date than the actual talks themselves. The expectations of the American government changed as a national drug policy was hammered out. Before consolidation of this policy, there could not be much progress in negotiating a narcotics control plan with a foreign state. Before negotiations with Colombia began during the Carter administration, there was no national drug interdiction policy. During the Nixon and Ford years, inter-departmental squabbling and bureaucratic red tape prevented the U.S. from articulating a national anti-drug stance that would be necessary before venturing into bilateral talks with other nations on narcotics control.

In April 1976, President Gerald Ford ordered the Department of the Treasury and the Internal Revenue Service (IRS) to step up the interception of profits from the sale of narcotics. He believed that the financial paper trail left by the drug kingpins would lead to more success in narcotics interdiction than concentrating on small-time dealers. In response, the Treasury asked the White House for \$20.6 million for intelligence operations and Assistant Treasury Secretary for Enforcement Activities, David MacDonald, submitted an ambitious 14-point plan that called for a strong IRS role in fighting the traffickers. Unfortunately, the White House Budget Office not only turned down the request for increased aid for intelligence, but also allowed the IRS Commissioner, Donald C. Alexander, to veto the MacDonald plan on the grounds

that it required too much IRS involvement. Alexander submitted a much weaker plan of his own which received support from the White House.⁵

The U.S. Senate issued criticism of its own in a report issued July, 1976. The Senate investigators cited lack of cooperation in exchanging information between the Drug Enforcement Agency (DEA) and the U.S. Customs Service. The DEA administrator, Peter Bensinger, admitted that "Customs and DEA relations have been strained," but insisted that they were improving. The Senate also disagreed with the "buy-bust" technique used by the DEA to arrest drug dealers, noting that the principal suppliers remained unpunished. Even worse, the Senate charged that such undercover practices were the cause of a "personal integrity problem" within DEA ranks.⁶

In addition to the in-fighting between the IRS and the Treasury Department, and the DEA and Customs, ubiquitous red tape also hindered the formation of a national drug policy. In June 1975 Columbia embarked on its own anti-drug effort, "Operación Cocina", which required special communications equipment. When a request was made to the U.S. government for the equipment, American narcotics officials insisted on conducting a "feasibility study" before purchasing it. Two

⁵Jack Anderson and Les Whitten, "Aborting and Anti-Drug Plan," The Washington Post, 22 September 1976, D17.

⁶John Chadwick, "Senate Panel Assails US Drive on Drugs," The Washington Post, 18 July 1976, B3.

months later, these officials decided that the Colombian campaign needed a different type of communications apparatus than they had originally requested. Colombia finally received the machinery shortly before Operación Cocina ended.⁷

The U.S. continued to struggle to forge a national drug policy and little headway was made during the transition from the Ford to Carter administrations. It was not until August 1977, in a message to Congress, that President Carter unveiled his anti-drug plan. This address is significant because it had a markedly different focus from the efforts of the Ford administration.

Carter prefaced his remarks with the statement that illustrated the theme of future U.S. narcotics policies: international cooperation to control the production and transport of dangerous drugs into the country. He embellished this idea in his message, stressing that diplomatic agreements against cultivation and trafficking were indispensable. Before Carter even mentioned the seven points that made up his anti-drug strategy, he had set the tone for a national narcotics policy. The focus would be global--with efforts primarily directed at supply interdiction.⁸ To these ends,

⁷Jack Anderson and Les Whitten, "Red Tape Hinders Drug Crackdown," The Washington Post, 18 February 1976, D14.

⁸See Jimmy Carter, "International Cooperation to Control Dangerous Drugs," (Washington, DC: US Department of State Bulletin, No. 1995, 19 September 1977), 380-381.

diplomatic agreements would be the principle weapons in the war on drugs. The fact that Carter's plan centered on an international effort reveals the absence of a consensus on a national drug policy. Little had changed to remedy the problems the Ford administration had encountered; most likely, Carter believed that it would be easier to achieve unanimous backing from Congress and the various departments if he stressed the need for a national effort against the foreign suppliers and traffickers of illicit drugs to the American market instead of concentrating on domestic narcotics interdiction.

The actual steps in Carter's plan reflect the themes explained above. First, he proposed giving greater emphasis to the international narcotics control program and to reiterating to foreign governments the strong desire of the U.S. to curtail the production of, and traffic in, illicit drugs. To this end, Carter called on the various agencies of the U.S. government, namely the DEA and U.S. Customs, to assist in the international program to the best of their capacities. Second, he enlisted the help of the intelligence community in the collection and analysis of information relating to international drug trafficking. Third, the President stressed the need to aid developing countries with crop substitution programs and improve drug control measures. Fourth, he instructed international banks to use their influence to encourage the implementation of the above

projects in developing countries. Fifth, Carter asked for improved international controls over dangerous drugs which also have legitimate medical usages. Finally, he emphasized that international expertise and cooperation among drug enforcement officials must be shared in order for this global effort to be successful.⁹

Carter's proposal concentrated on supply side interdiction rather than addressing U.S. demand for drugs. Although mentioning crop substitution, the focus of U.S. policy would be the use of international agreements to impede the production of, and traffic in, illegal drugs coming into the country. Other government officials concerned with the narcotics dilemma concurred with Carter's plan. Peter Bensinger echoed the president's intention to place more responsibility on drug-producing nations to arrest drug dealers and to destroy their bases of operations. Like Carter, Bensinger believed that without a firm Colombian promise of domestic narcotics interdiction, any chance of winning the war on drugs would be doomed: "I think the real increase in presence is needed . . . on the part of the Colombian judicial employees and a political commitment by the President [Julio César Turbay] that he will not allow coca to be grown eight to nine times greater than what is legally

⁹Ibid., 381-382.

needed.¹⁰

Carter's message to Congress provided the best example of the result of the search for formula. The U.S., unable to achieve consensus on a domestic narcotics policy, made international drug interdiction a domestic issue. In their negotiations with Colombia, the United States remained committed to this formula, and would seek details that would best implement it. Predictably, in bilateral negotiations, the U.S. pushed for international agreements that would guarantee the execution of their formula.

Search for Formula: Colombia

Like the U.S., the mid-1970's witnessed Colombia's search for a national narcotics policy. Before 1975, when Colombia emerged at the forefront of drug trafficking and production, the country encountered several obstacles in its search for a uniform drug policy. The unwillingness to accept any responsibility for the North American narcotics dilemma, as well as insufficient funds needed to ensure the success of any anti-drug campaign, prevented Colombia from developing its own effective formula. The administrations of López-Michelsen (1974-78) and Turbay Ayala (1978-82) best illustrate the Colombian attempts at finding a formula to deal with the drug

¹⁰Congress, House, Select Committee on Narcotics Abuse and Control, Cocaine: A Major Drug Issue of the Seventies: Hearings before the Select Committee on Narcotics Abuse and Control, 96th Cong., 1st sess., 24 and 26 July 1979, and 10 October 1979, 28.

problem.

Although it was during López-Michelsen's term that Colombia's drug production and trafficking rose dramatically, he did not develop a coherent plan for addressing the problem. López-Michelsen believed that it was U.S. demand for drugs that remained at the root of the predicament, "the permanent number of American customers" was not Colombia's concern.¹¹ However, during his administration, the estimated earnings from the drug trade were as high as \$3.2 billion. Therefore, despite his rhetoric, López-Michelsen realized that the astronomical profits of the drug trade endangered the Colombian economy.

The response of the López Administration involved an attempt to harness this badly needed foreign currency for the benefit of the entire Colombian economy. The opening of the ventanilla siniestra (literally, the sinister window) at the Banco de la Republica allowed dollars to be converted into pesos with no questions asked. While it seemed like a good idea at the time, the government ran into trouble when coffee prices rose dramatically from 1975-77 as the result of a frost in Brazil. Foreign reserves increased too rapidly when coupled with the currency garnered from the "other economy" and the increasing coffee profits. Because the productive

¹¹Robert H. Dix, The Politics of Colombia, (New York: Praeger Publishers, 1987), 52.

capacity of the economy had not increased sufficiently to keep up with the money supply, inflation reached 20 to 30 percent. Lopez-Michelson found himself with a foreign capital surplus that was accompanied by high inflation.¹²

López-Michelson's economic woes did not go unnoticed. In a report of a study mission to Colombia, the U.S. government acknowledged the link between "narco-dollars" and inflation, and López-Michelson's attempts to solve the problem:

Narcotics is responsible for approximately \$1 billion entering Colombia and contributes to the foreign exchange bonanza which has created tremendous inflationary pressures. The Colombian Government's attempts to control inflation are severely hampered by this increase in money supply which is not officially integrated into the fiscal system.¹³

In spite of these monetary problems, López-Michelsen did manage to make some progress on the drug issue before he left

¹²Harvey F. Kline, Colombia: Portrait of Unity and Diversity, (Boulder, CO: Westview Press, 1983), 115-1116.

¹³Congress, House, Committee on International Relations, United States in the Western Hemisphere: Report of a Study Mission to Colombia, Ecuador, Peru, Chile, Argentina and Brazil to the Committee on International Relations, 95th Cong. 2d sess., 9-23 August 1977, (Washington, DC: US GPO, 1978), 4.

office. In 1977 more cocaine seizures than ever before illustrated his increased commitment. Colombian seizures of cocaine in 1977 represented a greater quantity than the total amount confiscated in the United States in that same year. In addition, in December, 1977, he established a select narcotics unit under the Attorney General, for which the U.S. provided training through the DEA. Further, the success of this unit and the effective use of three helicopters furnished by the United States prompted increased American funding for the nascent anti-drug campaign. Despite López-Michelsen citing North American demand as the sole cause of drug production and trafficking, as he neared the end of his term in office, he had begun to implement programs that focused on eliminating drugs at their source. Through these initial efforts, a Colombian formula began to emerge.¹⁴

In part because of the economic problems of his predecessor, President Turbay took an even more active stance against illicit narcotics. The Attorney General's Anti-Narcotic Unit continued to be successful. In 1978 total cocaine seizures by all enforcement agencies in Colombia (the military, the National Police, Customs, and the Department of Administrative Security) totalled 650 pounds. During the first three months of 1979, that amount had been exceeded,

¹⁴See K. Mathea Falco, "Narcotics: International Control Program," (Washington, DC: US Department of State Bulletin, No. 2015, June, 1978), 44.

with most of the seizures being made by the Attorney General's Unit.¹⁵ Despite these successes, in 1978 it had become obvious that the implications of the "other economy" on Colombia were escalating. The illicit income earned by Colombians from all drug sales: (1) contributed approximately 6 percent to the nation's 30 percent inflation rate and 15 to 18 percent of the growth of its money supply, growth that could not be controlled; (2) jeopardized Colombia's financial institutions and rendered precarious all forms of governmental economic planning; (3) contributed substantially to Colombia's becoming a food-importing country through the conversion of crop lands and rural laborers to drug production rather than that of staples; and (4) became the largest source of dollars in the underground economy, adding millions to the nation's foreign exchange surplus, a surplus that had already caused economic problems and could not be regulated in the future.¹⁶

Although during the López-Michelsen Administration it had been obvious that the U.S. was more concerned with drug eradication than was Colombia, these problems associated with

¹⁵Congress, House, Select Committee on Narcotics Abuse and Control, Factfinding Mission to Colombia and Puerto Rico: A Report of the Select Committee on Narcotics Abuse and Control, 96th Cong., 1st sess., 1979, Committee Print 16, p. 3.

¹⁶Richard B. Craig, "Domestic Implications of Illicit Colombian Drug Production and Trafficking," Journal of Interamerican Studies and World Affairs, 25 (August 1983): 328-329.

the drug economy had magnified. Colombia was no longer benignly trafficking drugs to foreign markets. By 1978 both the United States and Colombia had reason to cooperate in the search for a solution to the narcotics dilemma, and Colombia's reversal of its previous recalcitrant stance revealed just how concerned the nation had become over the looming problems linked to the drug trade. Still, Colombia simply did not have the resources to combat the drug traffickers solely via the use of a domestic eradication campaign. In order to rid themselves of the drug menace, Colombians would need outside financial backing. Possibly because the measures taken by López-Michelsen had failed (the ventavilla siniestra debacle) and, in addition to the economic instability caused by the drug trade, Turbay agreed with the U.S. that stopping illicit narcotics at the source was paramount. For Colombians, the benefit of cooperating with the U.S. formula meant the elimination of a serious domestic problem whose consequences were only likely to get worse, without having to finance it alone. True, it meant accepting publicly some of the responsibility for the inter-American narcotics problem (which López-Michelsen had been unwilling to do) but, by 1978, Colombia had been unable to devise a successful, affordable plan of its own.

Conclusion

Both the United States and Colombia had overcome significant obstacles by the time the two countries had agreed

upon a formula. The U.S. had to formulate a plan that would be acceptable to the various departments that compose its huge bureaucracy, and Colombia had to come to terms with the previously unforeseen domestic problems associated with the drug trade. The final formula possessed the needed relevance that Zartman deems crucial for it to succeed. The "search and destroy at the source" formula devised by the U.S. certainly addressed the problem of narcotics production and trafficking; however, two other important characteristics, comprehensiveness and irreplaceability, were not similarly evident.

The U.S. formula did not cover many points of the dilemma. Although Jimmy Carter mentioned crop substitution in his seven-point plan, the bulk of the two nations' efforts centered on financing police training and intelligence equipment. Further, the U.S. did not contribute much to stem the demand for drugs by increasing narcotics abuse programs. This lack of comprehensiveness was further testimony to the absence of consensus within the U.S. bureaucracy on how to deal with the domestic drug problem. Finally, the fact that Colombia had acquiesced in the U.S. formula meant that it might be replaced easily. It obviously placed more pressure on Colombia; the U.S. simply had to finance the operations, but Colombians were left to actually implement the program. Zartman warns that if a formula gives more to one nation than to another, the country that comes out on the short end will

not be as motivated to observe it. (Unfortunately, the formula would not prove to be irreplaceable, and Colombia withdrew from the agreement in 1986 in part because of the above reason.)¹⁷

Now that Colombia had agreed to the U.S. formula, the details had to be defined. While the two countries had come a long way by achieving a consensus on a formula, their conception of supply side eradication needed to be clarified.

A discussion of the details of the formula followed, with the object of implementing the formula and concluding negotiations.

¹⁷Chapter 4 will provide further elaboration on the results of the formula that caused the Colombian Supreme Court to declare the extradition treaty, the most important detail, invalid in 1986.

CHAPTER III

THE DETAIL PHASE

Introduction

The third and final phase of the negotiations model, the detail phase, occurs after a consensus has been reached on the formula. In the case of the U.S.-Colombian negotiations in the mid-1970s, it was proposed that the problem of narcotics trafficking be solved by implementing a formula championed by the Americans: supply-side eradication via diplomatic agreements. Once the two nations had agreed to this formula, the actual details of the plan had to be constructed. Exactly what was meant by "diplomatic agreements"? How much aid was Colombia, as a drug-producing nation, to receive to help fund the eradication process? And what was the precise role of the United States in this somewhat asymmetrical formula? These important questions would be answered in the detail phase.

This chapter will first explain the detail phase of the model in greater depth before focusing on how this phase was manifested in the real world--that is, in the U.S.-Colombian negotiation process.

The Detail Phase: A Definition

If the formula phase is analogous to the "ends," then the detail phase can be described as the means to these goals.

By placing the details last in order, the parties are able to concentrate on broader, uniting goals of the talks rather than getting bogged down with minor details early in the dialogue. Zartman and Berman note that the detail phase is often the most complex of the three phases because of the hostility encountered. By definition, details are specific and are more likely to cause conflict than the more general formula phase. The two authors acknowledge that because of its complexity, the detail phase is not necessarily limited to one single model and the guidelines for negotiating details may come from a wide range of different, overlapping cues and models.¹

The detail phase most resembles the "offer-counteroffer" negotiation model: the parties send signals (offers and demands), make concessions, exchange points (converge), arrange details, and finally bring the negotiations to an end. Habeeb stresses that although the detail phase looks remarkably similar to the offer-counteroffer model, the merits of the phase lie in the fact that it is only the last of three stages (the first two are largely preparatory), and represents the culmination of arduous communication and groundwork that offer-counteroffer neglects.²

¹I. William Zartman and Maureen R. Berman, The Practical Negotiator, (New Haven, CT: Yale University Press, 1982), 148-149.

²William Mark Habeeb, Power and Tactics in International Negotiations, (Baltimore: The Johns Hopkins University Press, 1988), 31.

The Detail Phase: U.S. and Colombia

As previously mentioned, during the negotiations between the United States and Colombia on the diplomatic agreements that were to implement the U.S. formula (i.e., the details), three obstacles had yet to be overcome: (1) the content of any "diplomatic agreement" to be concluded between the two nations; (2) the roles both countries would play in implementing the formula; and (3) any supplementary measures that could be used in tandem with diplomatic agreements. These important issues had to be settled during the detail phase. While both nations had managed to find some consensus on the goals of negotiation during the formula phase, they still needed to resolve the above issues and conclude the negotiations.

The Meaning of "Diplomatic Agreements"

The United States had intrinsically linked diplomatic agreements to the implementation of their formula for narcotics eradication, but the term "diplomatic agreement" had yet to be defined specifically. Obviously, if the U.S. intended to focus its anti-drug plans on producing states, national sovereignty concerns meant that diplomatic accords would be crucial. The United States did not define immediately the content of any diplomatic agreements as they worked out their formula, but instead described international cooperative measures: "We must work closely with other governments to assist them in their efforts to eradicate the

cultivation of drugs," President Carter stated in his August 2, 1977 message to Congress.³ In that same address, Carter also cited the work of the United Nations (UN) in its efforts to help drug-producing states find alternative crops and improve drug control measures, but no mention of any pacts or treaties was made.

The immediate aftermath of the president's address was characterized by much debate and little action. In the fall of 1977, the House of Representatives held hearings on a federal drug strategy in an effort to work out the details of the international anti-drug formula. During the hearings, Rep. Lester L. Wolff, Chairman of the Select Committee on Narcotics Abuse and Control, complained that despite the involvement of the DEA, the State Department, and the newly-created Office of Drug Abuse Policy, it was unclear which department would head the international narcotics eradication effort and what measures were to be taken: "We have got a lot of lipservice and got very little in way of response."⁴ During 1978, however, the United States would succeed at defining and implementing these measures.

³Jimmy Carter, Public Papers of the President 1977, Vol. 2, (Washington, DC: United States Government Printing Office, 1978), 1401.

⁴Congress, House, Select Committee on Narcotics Abuse and Control, Oversight Hearings on Federal Drug Strategy before the Select Committee on Narcotics Abuse and Control, 95th Cong., 1st sess., 23 September; 6 and 12 October; and 15-16 November 1977, (Washington, DC: United States Government Printing Office, 1978), 30.

By 1978 action accompanied the rhetoric: the United States was actively pursuing concrete agreements with drug-producing countries rather than vaguely requesting international cooperation in the war on drugs. In a September 23, 1978 news conference, Carter announced that the United States had worked out an agreement with Mexican President Jose Lopez Portillo to eliminate poppy fields, which were the principal source of heroin in the Western hemisphere.⁵ During 1978 the U.S. signed a series of accords with Mexico specifically designed to serve as weapons in the war on drugs. These agreements preceded steps that would be taken with Colombia to wage a similar campaign in that country. From these varied agreements, a clearer picture of the U.S. narcotics control formula emerged.⁶

On April 3, 1978, the U.S. and Mexico signed a protocol stating that the U.S. would spend \$500,000 to provide helicopter training for Mexican pilots.⁷ In addition to the

⁵Jimmy Carter, Public Papers of the President 1978, Vol. 2, (Washington, DC: United States Government Printing Office, 1979), 1599.

⁶Mexico (and Colombia, for that matter) was not the only country involved in a flurry of diplomatic activity with the United States over the drug issue. See Department of State, "Venezuela: Cooperation in the Narcotics Field," 28 March 1978, TIAS no. 9235, United States Treaties and Other International Agreements, vol. 30, pt. 1, for US efforts with another Latin American nation.

⁷Department of State, "Mexico: Narcotic Drugs: Helicopter Pilot Training," 3 April 1978, TIAS no. 9234, United States Treaties and Other International Agreements, vol. 30, pt. 1.

U.S.-funded pilot training program, the two countries also concluded several other agreements, all part of a larger anti-drug package. On May 15, 1978, the United States pledged \$7,000,000 for special scanners and aircraft to assist the Mexicans in illicit crop detection, crucial to any drug eradication campaign.⁸ Less than two weeks later, in an exchange of notes, the U.S. agreed to give Mexico \$500,000 (it was later amended to \$1,855,000), to assist them in their drug interdiction and eradication programs.⁹ In August 1978, the U.S. agreed to send aircraft, spare parts, and training to Mexico. This package included eight helicopters and one cargo aircraft, and carried a price tag of \$4,620,000.¹⁰ In addition to the monetary and personnel assistance, the United States and Mexico also signed an extradition treaty in 1978, for the express purpose of extraditing suspected drug traffickers to the United States for trial.¹¹ From Mexico's

⁸Department of State, "Mexico: Narcotic Drugs: Illicit Crop Detection System," 15 May 1978, TIAS no. 9248, United States Treaties and Other International Agreements, vol. 30, pt. 1.

⁹Department of State, "Mexico: Narcotic Drugs: Additional Cooperative Arrangements to Curb Illegal Traffic," 24 May 1978, TIAS no. 9258, United States Treaties and Other International Agreements, vol. 30, pt. 2.

¹⁰Department of State, "Mexico: Narcotic Drugs: Provision of Aircraft," 23 August 1978, TIAS no. 9254, United States Treaties and Other International Agreements, vol. 30, pt. 1.

¹¹Department of State, "Mexico: Extradition," 4 May 1978, TIAS no. 9656, United States Treaties and Other International Agreements, vol. 31, pt. 3.

example, it is possible to see the details of the U.S. formula: "diplomatic agreements" cover everything from extradition treaties to aid packages, all part of the anti-drug effort.

In the negotiations with Colombia, the United States placed great emphasis on diplomatic agreements that included financial aid as well as treaties; however, the principal weapon in the war on drugs in Colombia would prove to be the extradition treaty the two nations signed in late 1979. This all-important detail was not the lone agreement; like Mexico, the U.S. and Colombia concluded several agreements aimed at reducing the illicit narcotics supply.

There were three principal diplomatic agreements signed by the U.S. and Colombia: an extradition treaty, an agreement to provide financial aid for the purposes of drug interdiction, and a mutual legal assistance treaty. An examination of the three primary agreements illuminate the details of the U.S. anti-drug formula with Colombia.

The Extradition Treaty

The most publicized achievement of the negotiations was the extradition treaty between the two countries, signed on September 14, 1979. Despite the fact that both nations had agreed that increased narcotics eradication and interdiction in Colombia was crucial to solving the drug dilemma, the treaty negotiations were not problem-free. An April 1979 report to the House Select Committee on Narcotics Abuse and

Control expressed concern over two developments that halted the negotiation. First, Colombia's laws, fashioned on the Napoleonic code, prohibited taking testimony from a person involved in a crime under a grant of immunity. According to Colombian law, any individual who participates in a crime must be prosecuted if he is identified. Second, at the time the extradition treaty was being negotiated, Colombian law did not recognize the crime of conspiracy except in matters involving treason.¹² The U.S. sought to extradite persons suspected of criminal conspiracy involving the production or trafficking of narcotics. At the time the report was issued, it was hoped that the two nations could resolve these differences, and conclude an agreement.

Obviously, these problems were solved, because by September, the two nations had signed the extradition treaty. The tenth article of the treaty stated that the "Requested State" may consider the evidence furnished in support of an extradition to be insufficient and under such circumstances can require submission of additional evidence. In addition, the Requested State could set a time limit for the

¹²Congress, House, Select Committee on Narcotics Abuse and Control, Factfinding Mission to Colombia and Puerto Rico: A Report of the Select Committee on Narcotics Abuse and Control, 96th Cong., 1st sess., 1979, Committee Print 96-1-2, p. 8.

presentation of such evidence.¹³ Presumably, this article allowed for a Colombian judge to refuse, as evidence, the testimony of a culpable witness who has been granted immunity. Article 2 of the treaty provided for extradition "for association to commit offenses as provided by the laws of Colombia, and for conspiracy to commit an offense as provided for by the laws of the United States."¹⁴ The treaty apparently equated the American crime of conspiracy with the Colombian conception of "crime by association." These two conflicts solved, the U.S. and Colombia concluded the extradition treaty.

Cooperation to Curb Illegal Traffic

Another important detail in the U.S. anti-drug formula was contained in the form of an exchange of notes that entered into force on August 6, 1980. In the exchange of notes, the United States agreed to pay \$13,225,000 for supplying and maintaining helicopters, patrol vessels, fixed radar equipment, transport vehicles, and fuel, which were to be used exclusively for interdicting drug traffic.¹⁵ The exchange of notes was notably more concise than the various agreements

¹³Congress, "Extradition with the Republic of Colombia," Senate Treaty Doc. 97-8, (Washington, DC: US Government Printing Office, 1981), 4-5.

¹⁴Ibid., 2.

¹⁵Department of State, "Colombia: Narcotic Drugs: Cooperation to Curb Illegal Traffic," 6 August 1980, TIAS no. 9838, United States Treaties and Other International Agreements, vol. 32, pt. 2.

Mexico and the U.S. had signed, specifying the different aid packages in each treaty. As the U.S. executed their anti-drug formula, the effort did become more streamlined; Colombia and the U.S. concluded only three principal agreements aimed at narcotics eradication.

The Mutual Legal Assistance Treaty

On August 20, 1980, the United States and Colombia signed a treaty on mutual legal assistance. In the treaty's preamble, the two countries stated that the purpose of the treaty was to "provide for more effective cooperation between the two states in the repression of crime."¹⁶ The agreement specified the channels of communication and the nature of the legal assistance upon which each country could rely. While it was not mentioned expressly in the treaty, the legal assistance that would be given would probably follow a request for extradition. Taking testimony, effecting the appearance in the Requesting State of persons located in that country, producing records, serving legal documents and providing evidence would most likely be activities that would occur after a request for extradition had been filed. While an extradition treaty specifies the circumstances under which extradition may take place, a mutual legal assistance treaty provides a guideline for legal conduct after the extradition

¹⁶Congress, Senate, Mutual Legal Assistance Treaty with the Republic of Colombia, 97th Cong., 1st sess., Senate Treaty Doc. 97-11, (Washington, DC: US Government Printing Office, 1981), 1.

has taken place.

Roles in Implementation of the Details

Besides revealing the means of implementing the formula, the three details explained above also defined the roles both nations were to play in the execution of the formula. The extradition treaty, the financial aid agreement, and the mutual legal assistance treaty were all bilateral arrangements, but they placed considerably more pressure on Colombia than on the United States. The three details reveal their asymmetry, and this asymmetry would prove to be the downfall of the salient element, the extradition treaty.

The extradition treaty, although aided in part by the mutual legal assistance treaty, placed most of the burden on Colombia. Colombia would be required to arrest and indict its nationals, and Colombian judges would have to approve orders of extradition to transport accused individuals to the United States for trial and imprisonment. The treaty was termed a bilateral agreement, but it was obvious that few U.S. citizens would be extradited to Colombia for drug trafficking. The treaty may have been signed by both parties as equal participants, but the actual implementation of the details would be left to the Colombians.

A similar criticism could be leveled against the financial aid package that the two nations concluded in August 1980. The United States provided the dollars for the equipment and manpower. After allocating the funds, the U.S.

really had no other major role to play; Colombians would be responsible for the actual implementation of any eradication and interdiction campaigns. The U.S. formula, by concentrating on the supply of drugs more than the demand, was destined to retain these incongruities when the details were implemented. As mentioned earlier, Zartman and Berman warn that any formula that places more pressure on one party than the other is destined to have problems.¹⁷ After the negotiations on the anti-drug package were concluded in August 1980, the actual measures taken by Colombia via these agreements would prove to have dire effects on the internal stability of that nation, so dire that Colombia withdrew from the extradition treaty in late 1986. Because the U.S. formula had been so dependent on Colombia for its actual implementation, Colombia's withdrawal dealt a serious blow to U.S. narcotics policy.

Supplementary Measures to Support the Actual Details

With U.S. emphasis on eradicating drugs at their source, and with a formula designed to accomplish that task, an investigation into the supplementary measures, if any, the U.S. was prepared to take to support the details of the formula, is necessary. In other words, did the United States make any effort to reduce the demand for drugs? Was the American appetite for illicit narcotics addressed in the

¹⁷Zartman and Berman, 89.

nation's attempt to devise a anti-drug strategy in the mid-1970's? President Carter did indeed address the nation's domestic abuse problem in his message to Congress in August, 1977. Carter promised to improve the quality of Federal drug treatment programs and recommended two steps to that end: he instructed to the Department of Health, Education and Welfare to expand resources devoted to care for drug abusers; and he directed the Secretary of Labor to identify all federal employment assistance programs which help former drug abusers, and to make recommendations to increase the access of drug abusers to these programs.¹⁸ These measures involved little more than reviewing existing drug abuse programs. No concrete financial increases were allocated at this time.

Several months later, the House of Representatives conducted hearings on federal narcotic strategy and, not surprisingly, the subject of the nation's demand for drugs was again raised. At the time of the hearings (fall 1977) an interagency review team under the leadership of the Office of Drug Abuse Policy planned to conduct a study of the current national programs to reduce the demand for drugs, and make

¹⁸Jimmy Carter, Public Papers of the President-1977, Vol. 2, (Washington, DC: US Government Printing Office, 1978), 1404-1405.

recommendations for improvement.¹⁹

During the same hearings, the committee heard the testimony of Richard L. Williams, Deputy Associate Director for Organization and Management in the Office of Drug Abuse Policy. Rather than address any future steps that were to be taken to improve the country's abuse programs, Williams' testimony was confined to a discussion of the high volume of narcotics entering the U.S. via the border with Mexico.²⁰ The text of the hearings was more than 600 pages long, and most of the testimony and prepared statements addressed the problem of international trafficking, rather than the demand for drugs. Recommendations for review of current drug abuse programs were mentioned, but no concrete action was taken.

The Select Committee on Narcotics Abuse and Control also held hearings in Chicago, Illinois, for the purpose of investigating narcotics trafficking proceeds. The committee was particularly interested in "establishing a factual record regarding the means by which traffickers move their illegal and untaxed money and the financial devices they employ in

¹⁹Congress, House, Select Committee on Narcotics Abuse and Control, Oversight Hearings on Federal Drug Strategy before the Select Committee on Narcotics Abuse and Control, 95th Cong., 1st sess., 23 September; 6 and 12 October; and 15-16 November 1977, 16.

²⁰*Ibid.*, 375-396.

their conspiracy."²¹ Chicago was chosen as the site of the hearings because of a recent discovery of a Mexican drug network that used Chicago banks to transfer large sums of money to Mexico.²² As was the case in the hearings described above, the demand for drugs did not assume an important place in the discussions in Chicago. Drug money filtered through legitimate financial institutions by Latin American drug cartels involved narcotic-producing nations. Certainly it was important to devise solutions to these problems, but it was also equally important to recommend supplementary measures to reduce demand for drugs.

The debate over how to reduce drug abuse in the United States continued to be plagued with much discussion and little action or appropriation of funds. In 1978, the Select Committee on Narcotics Abuse and Control conducted hearings specially devoted to prevention of drug abuse, and committee members expressed exasperation at the lack of tangible results in improving existing drug abuse programs. Rep. Benjamin Gilman stated, "And here we are some 15 months after a new administration has come into office that is still talking about studying the possibilities of reorganizing,

²¹Congress, House, Select Committee on Narcotics Abuse and Control, Investigation of Narcotics Trafficking Proceeds, Hearings before the Select Committee on Narcotics Abuse and Control, 95th Cong., 1st sess., 30 September and 1 October 1977, 1.

²²Ibid.

coordinating, and unifying the Federal drug effort."²³ His colleague Glenn English was even more blunt: ". . . there has been no indication that the program that the Federal Government has been carrying out has done one blooming thing or accomplished a single thing."²⁴ During 1978 the Office of Drug Abuse Policy had ceased to function and its personnel transferred to the Domestic Policy Staff. The congressmen seemed confused with exactly what office and which persons were in charge of the nation's drug abuse policy. Gilman called the reorganization "musical chairs."²⁵ This first hearing (April 18) illustrated the inability of Carter's staff to assess the nation's drug abuse programs and make improvements to reduce the demand for drugs. The remainder of the hearings did not address the narcotics abuse programs directly. The April 20 hearing was devoted to the role of the media in drug abuse programs; the next hearing, five days later, concentrated on private efforts to end drug abuse; the hearings in May focused on drug abuse in public schools and heard the testimony of local officials on this problem. It is clear from the hearings that while Americans' appetite for drugs was of concern to policy-makers in the Carter

²³Congress, House, Select Committee on Narcotics Abuse and Control, Prevention of Drug Abuse: Hearings before the Select Committee on Narcotics Abuse and Control, 95th Cong., 2d sess., 18, 20, and 25 April; 16 and 25 May 1978, 22.

²⁴Ibid., 23.

²⁵Ibid., 24.

Administration, it was hardly a highlight of the U.S. war on drugs.

When the United States was engaged in negotiations with Colombia to devise an anti-drug package, it paid very little attention to ways of reducing the demand for illicit narcotics. Most of the supplementary measures that were discussed were confined to different aspects of reducing the supply of illegal drugs entering the U.S.--not ways to reduce the number of American customers who constituted the largest market for cocaine, heroin and marijuana. In sum, although the detail phase was successful in precisely defining the U.S. formula, it was obvious that the United States was not prepared to do more than supply the Colombians with money and legal assistance to hasten the extradition process. Any expanded drug abuse programs to reduce the demand for narcotics would not figure prominently as a detail in the U.S. formula.

Conclusion

With the conclusion of the detail phase, the U.S.-Colombian negotiations on narcotics eradication were, in fact, finished; the planning had been completed, but the implementation of the formula and details would prove to be the true judge of the talks. The previous three chapters endeavor to illuminate the negotiation process for the purpose of discerning the motives and goals of both parties. The reader is no doubt curious about the actual life and

accomplishments of the anti-drug package. The fourth, and final, chapter addresses these questions and serves as an epilogue to this discussion of the formula-detail model.

CHAPTER IV
THE FAILURE OF THE TREATY

Introduction

This chapter is devoted to an assessment of the U.S. formula and the details used to implement that formula. Unlike the previous three chapters, chapter four will not analyze the negotiation process but will evaluate the most important detail in the U.S. formula, the extradition treaty, and offer an explanation as to why it was perceived by the Colombians to be too costly a proposition to continue. Further, while the bulk of the thesis discusses events that occurred during 1975-79, this chapter will address the issue as it stands in 1989.

As was stated earlier, the failure of this treaty dealt a tremendous blow to the United States' war on drugs. Even before its demise, the U.S. government made the extradition treaty the focus of its anti-drug crusade, and signed new extradition treaties with several other nations besides Colombia--Mexico (1978), Costa Rica (1984), and Jamaica (1984). The treaty with Colombia was especially significant. The Medellín cartel was estimated to control 80 percent of the

cocaine traffic to the United States.¹ With the terms of the treaty designed to cover almost all aspects of the drug trade, from money laundering to customs violations, it appeared as though the kingpins would at last be brought to justice. Recent developments in Colombia, however, have revealed the failure of international law as a means of stifling the drug trade. The dependence of the economy on narcotics, its unique political history, and Colombia's determination to solve its own problems are three factors that contributed to the inability of international law to function effectively against drug smuggling. The demise of the U.S.-Colombian extradition treaty can be attributed to these factors and is the subject of this chapter.

The Treaty

There were two previous U.S.-Colombian extradition treaties (signed in 1888 and 1940), neither of which contained language aimed at drug trafficking. As a result, these earlier treaties were considered ineffective in combatting narcotics smuggling. The 1979 treaty was, therefore, drafted with the purpose of removing legal loopholes and updating the

¹Congress, House, Committee on Foreign Affairs, Recent Developments in Colombia: Hearing before the Committee on Foreign Affairs, 100th Cong., 2d sess., 27 January 1988, 8.

earlier efforts of the two governments.²

Historically, an individual could not be extradited unless he had committed a crime specified as an extraditable offense under the terms of the treaty.³ The 1979 treaty removed this obstacle: any crime that was punishable by a year or more in prison in either the U.S. or Colombia constituted an extraditable offense.⁴ By increasing the scope of extraditable crimes to include all felonies, the treaty greatly increased the likelihood that narco-traffickers could be extradited.

In Article 8, the treaty addressed instances when extradition of foreign nationals could take place. Rather than limiting extradition to foreigners who had committed unlawful acts on U.S. soil, the treaty specified that if the crime took place in either country with the intent of violating the law in the requesting state, extradition would be granted.⁵ In other words, drug dealers who initiate the

²Congress, House, Select Committee on Narcotics Abuse and Control, Study Mission Report of the US Congressional Delegation to the Andean Parliament, Paipa and Bogota, Colombia, report, 100th Cong., 1st sess., 1987, Committee Print, p. 10.

³J. Richard Barnett, "Extradition Treaty Improvements to Combat Drug Trafficking," Georgia Journal of International and Comparative Law, 15 (1985): 300.

⁴Congress, Extradition Treaty with the Republic of Colombia, Sen. Treaty Doc. 97-8, Washington, DC: GPO, 1981, 1-2.

⁵*Ibid.*, 3.

smuggling of drugs to the U.S. from inside Colombian borders were guilty of an intent to violate U.S. law, and subject to extradition.

These strict provisions were accompanied by an appendix of the schedule of offenses. This appendix specified "offenses against the laws relating to the traffic in, possession or manufacture of, narcotic drugs, cannabis, hallucinogenic drugs, cocaine and its derivatives, and other substances which produce physical or psychological dependence." Further, an "offense against public health, such as the illicit manufacture of or traffic in chemical products or substances injurious to health" was deemed an extraditable crime. This provision was primarily aimed at persons who may be found in possession of certain chemicals (i.e., ether) used to process raw coca paste into cocaine. The schedule also made offenses against the laws relating to international trade and transfer of funds extraditable crimes. Authorities were often alerted to the activity of drug dealers through irregularities in financial transactions at banks. The huge cash profits generated by narcotics trafficking are usually "laundered" through various financial institutions. If bankers can detect the trail, a narco-traficante is often the cause. Under the 1979 treaty, money laundering was grounds for extradition.

The specificity of the 1979 treaty with Colombia gave rise to other extradition treaty improvements designed to

restrict the activities of drug dealers. In his article "Extradition Treaty Improvements to Combat Drug Trafficking," J. Richard Barnett explains how innovations in the 1984 treaties with Thailand, Costa Rica, Jamaica, and Italy "reflect an increased administrative commitment to surmount obstacles in international law enforcement efforts."⁶ Like the U.S.-Colombian treaty, these treaties closed loopholes in the definition of both extraditable crimes and conspiracies to commit extraditable offenses. In his conclusion, the author is optimistic about the new treaties: "Such substantive and procedural improvements to the extradition process should aid government efforts to fight narcotics trafficking and to improve the effectiveness of United States' international law enforcement efforts."⁷ If the treaty improvements were so well received by legal scholars, why has the U.S.-Colombian treaty been ineffective in combatting drug trafficking? The answer is that the importance of drugs in Colombia's economy and the country's political development have created conditions that have proven hostile to the treaty.

Economic Implications of the Drug Trade

The economic implications of the drug trade in Colombia are difficult to document with precise statistics, but some research has been conducted by Colombian social scientists.

⁶Barnett, 285.

⁷Ibid., 315.

Craig cites their findings and has identified several consequences that result from narco-trafficking. First, the income earned by Colombians from drug sales contributes approximately 6 percent to the nation's 30 percent annual inflation rate, and prevents the government from engaging in sound economic planning. Additionally, it shrinks the pool of money available for legitimate lending and raises credit rates so high that people turn to traffickers for financing. In addition to the impact of illegal income on monetary policy, the cultivation of the coca leaf means that croplands are diverted from food output to drug production, making Colombia increasingly dependent on imported foodstuffs.⁸ The drug trade or la otra economíá profoundly affects the Colombian economy.

While the influential drug barons in the Medellín cartel become rich from drug profits, their monies do not trickle down to the campesino who grows coca or marijuana on a small farm. Although he may earn more from a drug crop than from a staple crop, he is not increasing his income by a huge margin. It is estimated that the small marijuana farmer receives 7 percent of the drugs' total export value while some 50 billion pesos annually (US \$155,279,503) goes to no more than 250 people. Fifty billion pesos is nearly 40 percent of

⁸Richard B. Craig, "Domestic Implications of Illicit Colombian Drug Production and Trafficking," Journal of Interamerican Studies and World Affairs, 25 (August 1981): 328-29.

the Colombian government's budget.⁹

In addition to the extra income, the peasant is further enticed to grow coca by the nature of the plant itself. It is a hearty species, able to reach maturity in 18 months, yielding several harvests per year and remains productive for 30 to 40 years.¹⁰ The Colombian government has passed an agricultural reform bill specifying that experts supervise and assist the efforts of peasant farmers, but their visits to small farms in remote areas are, at best, sporadic.¹¹ Coca production by campesinos is virtually unregulated, leaving the peasant at the mercy of the drug lords and the government. Colombia's legal system has not been able to employ the law as an effective measure of coercion. The only deterrent to the peasant farmers is the fact that growing coca is illegal.

Supply versus Demand Argument

As has been noted several times in this thesis, the high demand for drugs in the US has made possible the huge profits garnered by Colombians traffickers. Colombians have long pointed to American demand as the primary cause of the drug problem. The supply vs. demand argument initially hampered

⁹Ibid., 328.

¹⁰Richard B. Craig, "Colombian Narcotics and United States-Colombian Relations," Journal of Interamerican Studies and World Affairs, 23 (August 1981): 244.

¹¹Howard J. Wiarda and Harvey F. Kline, Latin American Politics and Development, (Boulder, CO: Westview Press, 1985), 259.

any US-Colombian solution to the drug problem, but as the Colombian government became more aware of the corruption and violence caused by the drug mafia, the prospect of bilateral talks became more attractive. (Despite the early successes in the talks, the American preoccupation with eradicating the of drugs at their source created undue pressure on Colombia and led to the demise of the extradition treaty.)¹²

The Failure of the Treaty: Colombia's Political Development

Barnett cites an anecdote appearing in Atlanta Magazine: "Corruption is so prevalent in Colombia that federal sources report that the mayor of Santa Marta closes the city airport to commercial flights each night and permits drug traffickers to use it. The mayor is said to personally greet each plane for his money."¹³ This example of overt corruption may not be illustrative of all local government officials, but it is evidence that the corruptive power of the drug lords has become a serious threat the delicate political balance that Colombia has forged after twenty years of political violence. That period in history has come to be known as La Violencia, and it disrupted Colombia from 1948 to 1968.

In the 1930's, Colombia's two major political parties were attempting to implement different programs for land

¹²See Kenneth E. Sharpe, "The Drug War: Going After Supply," Journal of Interamerican Studies and World Affairs, 30 (Summer-Fall 1988): 77-85, for a concise evaluation of the ineffectiveness of supply-side eradication.

¹³Barnett, 291.

reform. Peasants who supported the losing party were often forced to surrender their land to other peasants who were associated with the winning side. The assassination of Jorge Gaitán, candidate for president in 1946 and the heir apparent to the leadership of the Liberal party, aggravated La Violencia. In the next twenty years, some 200,000 Colombians lost their lives fighting in the name of party loyalty. A long term result of the conflict was that an entire generation of Colombian peasants grew up thinking that violence was the normal way of life.¹⁴

Colombia finally extricated itself from the civil war in the late 1950's with the creation of the National Front. The brainchild of Alberto Lleras Camargo, a Liberal, and Laureano Gómez, a Conservative ex-president, the National Front won the approval of the Colombian people in a plebiscite and was approved by the National Congress as a constitutional amendment in 1958. In effect from 1958 to 1974, the National Front was a plan to avoid the intense party rivalry that had been a major cause of La Violencia. The plan's most important reform included an alternating of the presidency between the two parties, dividing equally all legislative bodies, and prohibiting political participation by other parties during this period. The National Front did not end violence overnight, but after six years, most of the violence had

¹⁴Wiarda and Kline, 257.

ceased.¹⁵

Despite the end of La Violencia, the scars of nearly two decades of brutal political violence remained. La Violencia was only the last in a period of six different outbreaks of partisan violence since the mid-1800's. An entire generation of Colombians had been exposed to political violence and accepted it as an unfortunate fact of life. The intense partisan competition created institutionalized violence that has become an integral part of Colombian society. The terrorist tactics used by the drug dealers to intimidate the government and the populace alike is not a new development. Previously, the Liberal and Conservative parties employed violence to achieve their political goals; today, drug dealers have adopted similar tactics.

The Failure of the Treaty: The Role of Violence

Violent intimidation of government officials attempting to curb the drug trade is a key factor in the failure of the extradition treaty. The 1984 assassination of Justice Minister Rodrigo Lara and the 1988 slaying of attorney general Carlos Mauro Hoyos illustrated the ruthlessness of the drug traffickers. Without a doubt, Colombia has seen more government officials as well as private citizens murdered by the drug dealers than has the United States. Juan G. Tokatlián states that this is an essential difference in

¹⁵Ibid., 258.

perceptions of the United States and Colombia as to how the drug problem should be solved. The United States has focused on eradicating the source of the narcotics before they reach American soil. The most important tool with which to achieve this goal had been the extradition treaty. In Tokatlián's opinion, the treaty has been a cause of the increase in drug-related violence. In addition, he believes that the treaty failed to reduce the entry of drugs into the United States and was ineffective in deterring those already in the narcotics business. It did not improve bilateral relations and has not strengthened legal instruments to deal with narcotics problem. The Colombian judiciary has been devastated by the violence employed by the traffickers. If the US government continues to pursue a policy of extradition, the drug dealers will continue to terrorize the judiciary.¹⁶

As the dealers have resorted to violence to protect their interests, they have employed new groups to carry out their activities. Increasingly, they have turned to several of Colombia's nine guerrilla groups. In November 1985, the M-19 (the April 19th Movement) took over the Palace of Justice in Bogota and killed the Supreme Court Justices they had taken hostage. It is generally assumed that the Medellín cartel

¹⁶Juan G. Tokatlián, "National Security and Drugs: Their Impact on Colombian-US Relations," Foreign Affairs, 67 (Fall 1988): 149.

paid the M-19 guerrillas \$1 million for their services.¹⁷ This incident was the most obvious evidence of a link between the guerrillas and the drug barons, signaling the arrival of the "narco-guerrilla" on the scene.¹⁸

The cartel made use of the guerrillas in 1985, but it is a tenuous alliance. There is a history of animosity between the drug dealers and the guerrillas dating back to 1981, when M-19 kidnapped the daughter of Jorge Ochoa, one of the cartel's leading members. Ochoa called a meeting of the wealthiest traffickers and they agreed to form their own counter-terrorist group. Funded by donations of \$7.5 million from each member at the meeting, the organization called "Death to the Kidnappers" or MAS, has used its own violent measures to prevent extortion by the guerrillas. The decision to pool their resources for the benefit of the cartel marked the beginning of a strong united front against the efforts of any outsiders to undermine their activities.¹⁹

In addition to forming MAS, the cartel has sparked further conflict with the guerrillas by purchasing acres of land in rural areas for the cultivation of coca. These areas are often located in guerrilla strongholds, and the cartel refuses to pay tribute to the guerrillas for protection. They

¹⁷Bruce M. Bagley, "Colombia and the War on Drugs," Foreign Affairs, 67 (Fall 1988): 83-84.

¹⁸Tokatlian, 146.

¹⁹Bagley, Colombia and the War on Drugs, 76.

have used their immense wealth to equip MAS with the latest weaponry and have recruited others to protect their farms.²⁰

Following the 1985 incident at the Palace of Justice and the rising death toll of judges murdered by the cartel's hitmen, the intimidated Supreme Court ruled the 1979 U.S.-Colombian extradition treaty unconstitutional on procedural grounds.²¹ Claiming that because the treaty had been signed by a minister acting on behalf of the president and not the president himself, the Court considered it an invalid document. When the President signed the treaty to reinstitute it, the Supreme Court declared that it had no power to render opinions on extradition matters.²² The violence perpetrated by the Medellín cartel has been a primary reason for the failure of the extradition treaty.

The Failure of the Treaty: National Sovereignty

It is evident that the United States' drug eradication policy has left most of the responsibility with Colombia to arrest and extradite drug smugglers and locate and destroy processing laboratories and coca farms. According to the director of Colombia's Narcotics Bureau in the Attorney-

²⁰Ibid., 84-85.

²¹Bruce M. Bagley, "The New Hundred Years War? US National Security and the War on Drugs in Latin America," Journal of Interamerican Studies and World Affairs, 30 (Spring 1988): 173.

²²Ethan A. Nadelmann, "The DEA in Latin America: Dealing with Institutionalized Corruption," Journal of Interamerican Studies and World Affairs, 29 (Winter 1978-88): 36.

General's office, Francisco Bernal, "We're being left to fight the war alone. We're supplying the dead, the country is being destabilized."²³ The pressure administered by the U.S. has Colombians worried. Although they are carrying out American anti-drug measures, if their actions fail to show results, they fear the U.S. government will take more decisive action. Operation Intercept (1969) and Operation Condor (1975) in Mexico and Operation Blast Furnace (1986) in Bolivia exemplify the United States' administering its own measures to wage the war on drugs in Latin America. Operation Blast Furnace involved assistance from the U.S. military in the destruction of several cocaine labs in Bolivia. Despite the dismantling of the labs, few arrests were made.²⁴ Unlike Mexico and Bolivia, who openly sought U.S. assistance in their anti-drug campaigns, Colombia has thus far refused to trade its national sovereignty for a decrease in narcotics exports. While Colombians willingly accept American dollars to fund the eradication efforts, the aid has stopped short of an actual U.S. presence in the country.

The United States continues to stand by the extradition treaty despite the violence it caused. The U.S. cites intimidation of the judiciary by the drug barons as evidence of the paralysis of the Colombian legal system that can be

²³ Bagley, New Hundred Years War, 173.

²⁴ Paul B. Goodwin, Jr., ed., Latin America, 3d ed., (Guilford, CT: Dushkin Publishing Group Inc., 1988), 182-83.

blamed on the cartel. Extradition is the only means of convicting and incarcerating the narcotics traffickers. Colombians argue that it is extradition itself that has caused the violence. Since the signing of the 1979 treaty, there has been a dramatic increase in terrorism by the Medellín cartel; however, an incident in late 1987 reinforced the possibility that the U.S. might resort to direct intervention to restrict the cartel's activities. Jorge Ochoa, one of the founders of the Medellín cartel, was arrested for a traffic violation. When Colombian police realized who he was, he was imprisoned and held for extradition. However, before he could be extradited, he was released from prison, reportedly paying \$3.8 million to bribe his way out of jail. The United States responded by tightening the inspection of products shipped from Colombia, including such perishable items as shrimp and flowers.²⁵ Colombians see the U.S. response as retaliation and resent the suggestion that they are unable or unwilling to solve the drug problem.

After the Treaty

While the Colombian and United States governments attempt to reach an agreement on a policy that will fill the void left by the failure of the extradition treaty, many solutions to the problem are being offered. Judicial reform is potentially the most promising suggestion. Higher salaries for the

²⁵Latin American Weekly Report (London), 21 January 1988.

presently overworked, underpaid judiciary members, the introduction of plea bargaining, and the use of the police for investigative research would enable the system to be more efficient.²⁶ A strong, uncorrupted judicial system would be a powerful weapon against the drug traffickers that would also enable Colombia to punish its citizens without intervention from the United States.

In the foreign policy arena, the U.S. government has been criticized for its lack of financial support of the anti-drug efforts in Colombia. Badly needed monies could provide herbicides for spraying, more sophisticated security for judges and witnesses, and a larger intelligence force. In addition to funding, the United States could contribute to the promotion of economic alternatives to the drug trade. Lowering import barriers for exports like coffee, sugar and flowers would provide incentive for small farmers to cultivate legitimate crops.²⁷

The most controversial answer to the drug dilemma, the legalization of narcotics, is politically unpopular in the United States. Nevertheless, legalization would reduce the huge profits garnered by the drug barons and enable governments to regulate and tax the enterprise.²⁸

²⁶Scott B. MacDonald, "Colombia's Legal System and the Drug Trade," 10 June 1988, unpublished manuscript, 19.

²⁷Bagley, Colombia and the War on Drugs, 90-91.

²⁸Nadelmann, 97-108.

Scholars and politicians alike have many proposals. While the debate drags on, drugs continue to be smuggled into the United States and Colombia's political system is still wracked with violence. With the extradition treaty in limbo, the Colombian courts are resisting efforts to extradite their nationals for trial in North America. In May 1988, the Consejo de Estado, Colombia's highest court on institutional and administrative matters, suspended the issuing of arrest warrants with the purpose of extradition. It cited the case of Pablo Escobar, a Medellín cartel member, as precedent. The motive behind the court's action was to force the extradition debate into the executive branch. In order to secure any future extraditions, the government will have to seek congressional approval for a new law to validate the 1979 treaty.²⁹

Although American officials accept the judgment of the Colombian Supreme Court that the 1979 treaty is invalid, diplomats continue to search for other valid extradition treaties rather than explore alternate policies. As late as October 2, 1988, the Mexico City News reported that efforts were underway in the United Nations to draft an international extradition treaty. An American official insists that it will be easier for Latin American governments to apply pressure to drug traffickers under the mantle of multinational

²⁹Latin American Weekly Report, (London), 26 May 1988, 10.

cooperation.³⁰ It is impossible to verify this prediction, and it would seem that, whether extradition is enforced by the US or an international organization like the UN, the drug dealers will resist it with violence, and that violence would most likely occur in Latin America. This author expects the intimidation tactics in Colombia to continue as long as the present anti-drug policies of the U.S. remain unchanged. Unfortunately for Colombia and other Latin American nations that have fallen victims to the retaliatory measures of the drug barons, it does not appear that the United States will abandon its policy of extradition.

Conclusion

The formula-detail model uses simple concepts to illustrate what is often a complex process. While the product of the U.S.-Colombian negotiations, the anti-drug package is easily discernable and therefore open to criticism, the actual process that gave birth to the extradition treaty and the aid program is not as readily identifiable; however, the use of models devoted to the decision-making processes at work during negotiation, provide valuable insight into the eventual outcome of the dialogue. The seeds of failure of the U.S. anti-drug formula were sown in the early negotiation process--the Colombians judiciary cannot take sole blame for the failure of the treaty. Although the shortcomings of the

³⁰Mexico City News, 2 October 1988, 16.

U.S. formula are revealed in the model, formula-detail is not predictive. It is impossible to tell from the 1975-79 negotiations what options will now be used in the face of the treaty's demise. Although it seems that eradication and interdiction are still the most important weapons in the war on drugs, it is not known whether or not the U.S. government will continue to adhere to these policies.

EPILOGUE

This thesis was completed in July, 1989. At the time, U.S.-Colombian negotiations on narcotics control had reached a stalemate. Events in August 1989, brought the drug issue renewed attention in the media. On August 18, a leading presidential candidate, Luis Carlos Galan, was assassinated on the orders of the Medellin cartel. Galan's murder prompted Colombian president Virgilio Barco Vargas to call for immediate renewal of the defunct extradition treaty. "If they don't handle it this time, it may well be the end of the line for the credibility of the executive branch of Colombia," says Robert Merkle, the former U.S. attorney who prosecuted Carlos Lehder.³¹

In addition to renewing the extradition treaty, in the week following Galan's murder, Colombian police seized \$200 million worth of the drug dealers' property and ordered the

³¹Linda Feldman, "Colombian Drug Battle: Challenge for the U.S.", Christian Science Monitor, 24 August 1989, 2. Carlos Lehder was the last Colombian drug trafficker to be extradited to the United States under the extradition treaty. In 1987, he was sentenced to life in prison without parole.

destruction of all unregistered airstrips by September 10.³² The traffickers responded by bombing several banks and government offices in Medellin. The violence is intensifying, and at this writing, Colombia may be facing the final battle. Whether the Colombian judiciary will remain intact to formally extradite arrested traffickers will be crucial, if either the U.S. or Colombia is to win the war on drugs.

³²James Brooke, "Attacking the Sovereign State of Cocaine," New York Times, 27 August 1989, sec. 4, 1.

WORKS CITED

- Bagley, Bruce Michael. 1988a. "The New Hundred Years War? US National Security and the War on Drugs in Latin America." Journal of Interamerican Studies and World Affairs 30 (Spring): 161-182.
- _____. 1988b. "Colombia and the War on Drugs." Foreign Affairs 67 (Fall): 70-92.
- Bagley, Bruce Michael and Juan G. Tokatlian. 1987. Contadora: The Limits of Negotiation. FPI Case Study Series. Washington, DC: The Johns Hopkins Foreign Policy Institute.
- Barnett, J. Richard. 1985. "Extradition Treaty Improvements to Combat Drug Trafficking." Georgia Journal of International and Comparative Law 15 (1985): 285-315.
- Carter, Jimmy. 1977. Public Papers of the President 1977. Vol. 2. Washington, DC: US GPO.
- _____. 1978a. "International Cooperation to Control Dangerous Drugs." Department of State Bulletin 1995 (19 September): 380-382.
- _____. 1978b. Public Papers of the President 1978. Vol. 2. Washington, DC: US GPO.
- Craig, Richard B. 1978. "La Campana Permanente." Journal of Interamerican Studies and World Affairs 20 (May): 107-131.
- _____. 1980. "Operation Condor: Mexico's Anti-Drug Campaign Enters a New Era." Journal of Interamerican Studies and World Affairs 22 (August): 345-363.
- _____. 1981. "Colombian Narcotics and United States-Colombian Relations." Journal of Interamerican Studies and World Affairs 23 (August): 243-270.
- _____. 1983. "Domestic Implications of Illicit Colombian Drug Production and Trafficking." Journal of Interamerican Relations and World Affairs 25 (August): 325-350.

- Dix, Robert H. 1987. The Politics of Colombia. New York: Praeger Publishers.
- Falco, K. Mathea. 1978. "Narcotics: International Control Program." Department of State Bulletin 2015 (June): 42-46.
- Fuertes, Sol. 1988. "The Bloody Anarchy in Colombia." World Press Review. 35 (April): 3.
- Goodwin, Paul B. Jr., ed. 1988. Latin America. 3d ed. Guilford, CT: Dushkin Publishing Group, Inc.
- Grayson, George W. 1988. Oil and Mexican Foreign Policy. Pittsburgh: University of Pittsburgh Press.
- Grinspoon, Lester and James B. Bakalar. 1976. Cocaine: A Drug and Its Social Evolution. New York: Basic Books.
- Habeeb, William Mark. 1988. Power and Tactics in International Negotiation. Baltimore: The Johns Hopkins University Press.
- Hartlyn, Jonathan. 1988. "Commentary on Bagley's 'The Hundred Years War? National Security and the War on Drugs in Latin America.'" Journal of Interamerican Studies and World Affairs 30 (Spring 1988): 183-186.
- Kline, Harvey. 1983. Colombia: Portrait of Unity and Diversity. Boulder, CO: Westview Press.
- MacDonald, Scott B. 1988. "Colombia's Legal System and the Drug Trade." Unpublished manuscript.
- Nadelmann, Ethan A. 1988. "The DEA in Latin America: Dealing with Institutionalized Corruption." Journal of Intereamerican Relations and World Affairs 30 (Spring 1988): 133-160.
- Wiarda, Howard J. and Harvey F. Kline. 1985. Latin American Politics and Development. Boulder, CO: Westview Press.
- US Congress. House. Select Committee on Narcotics Abuse and Control. Cocaine: A Major Drug Issue of the Seventies: Hearings before the Select Committee on Narcotics Abuse and Control. 96th Cong., 1st Sess., 24, 26 July and 10 October 1979.

- US Congress. House. Select Committee on Narcotics Abuse and Control. Factfinding Mission to Colombia and Puerto Rico: A Report of the Select Committee on Narcotics Abuse and Control. 96th Cong., 1st Sess., Committee Print 96-1-2.
- US Congress. House. Select Committee on Narcotics Abuse and Control. Investigation of Narcotics Trafficking Proceeds: Hearings before the Select Committee on Narcotics Abuse and Control. 95th Cong., 1st Sess., 30 September and 1 October 1977.
- US Congress. House. Select Committee on Narcotics Abuse and Control. Oversight Hearings on Federal Drug Strategy before the Select Committee on Narcotics Abuse and Control. 95th Cong., 1st Sess., 23 September; 6 and 12 October; and 15-16 November, 1977.
- US Congress. House. Select Committee on Narcotics Abuse and Control. Prevention of Drug Abuse: Hearings before the Selection Committee on Narcotics Abuse and Control. 95th Cong., 2d Sess., 18, 20, and 25 April; 16 and 25 May 1978.
- US Congress. House. Committee on Foreign Affairs. Recent Developments in Colombia: Hearing before the Committee on Foreign Affairs. 100th Cong., 2d Sess., 27 January 1988.
- US Congress. House. Select Committee on Narcotics Abuse and Control. Study Mission Report of the US Congressional Delegation to the Andean Parliament, Paipa, and Bogota, Colombia. Report. 100th Cong., 1st Sess., Committee Print.
- US Congress. House. Committee on International Relations. United States in the Western Hemisphere; Report of a Study Mission to Colombia, Ecuador, Peru, Chile, Argentina and Brazil to the Committee on International Relations. 95th Cong., 2d Sess., Committee Print.
- US Congress. Senate. Extradition Treaty with the Republic of Colombia. Senate Treaty Doc. 97-8. Washington, DC: GPO, 1981.
- US Congress. Senate. Committee on Foreign Relations. Extradition Treaty with the Republic of Colombia. Report prepared by Charles Percy. 97 Cong., 1st Sess., Sen.

Exec. Report 97-34.

US Congress. Senate. Mutual Legal Assistance Treaty with the Republic of Colombia. Senate Treaty Doc. 97-11. Washington, DC: GPO, 1981.

US Congress. Senate. Committee on Foreign Relations. Treaty with Colombia Concerning the Status of Quita Sueno, Roncador, and Serrana. Report, 97th Cong., 1st Sess., Committee Print 97-16.

US Department of State. "Colombia: Narcotic Drugs: Cooperation to Curb Illegal Traffic," 6 August 1980. International Agreements, vol. 32, pt. 2.

US Department of State. "Mexico: Extradition," 4 May 1978. TIAS no. 9656. United States Treaties and Other International Agreements, vol. 31, pt. 3.

US Department of State. "Mexico: Narcotics Drugs: Additional Cooperative Arrangements to Curb Illegal Traffic," 24 May 1978. TIAS no. 9258. United States Treaties and Other International Agreements, vol. 30, p. 2.

U.S. Department of State. "Mexico: Narcotic Drugs: Helicopter Pilot Training," 3 April 1978. TIAS no. 9234. United States Treaties and Other International Agreements, vol. 30, pt. 1.

US Department of State. "Mexico: Narcotic Drugs: Illicit Crop Detection System," 15 May 1978. TIAS no. 9248. United States Treaties and Other International Agreements, vol. 30, pt. 1.

US Department of State. "Mexico: Narcotic Drugs: Provision of Aircraft," 23 August 1978. TIAS no. 9254. United States Treaties and Other International Agreements, vol. 30, pt. 1.

Zartman, I. William and Maureen R. Berman. 1982. The Practical Negotiator. New Haven, CT: Yale University Press.

VITA

Meghan Mary Malloy

Born in Milwaukee, Wisconsin, July 8, 1966. Graduated Divine Savior-Holy Angels High School in that city, June, 1984. B.A., Regis College 1988. M.A. candidate, the College of William and Mary, 1988-89, with a concentration in Government. The course requirements for this degree have been completed; the submitted thesis will complete the degree.