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DRUG ENFORCEMENT ADMINISTRATION  
MEXICO

Mexico has ratified the Single Convention on Narcotics of 1953, legislative approval having been granted by Decree of January 3, 1967, and Executive promulgation by Decree of April 22, 1967. Both are published in the government daily, Mexico Oficial, of February 4, and May 21, 1967, respectively. No reservations were made at the time of signature or ratification.

Some amendments were introduced in the Penal Code of 1931 by Decree of March 2, 1968 (P.O. March 8), which may possibly have been due to the influence of the ratification of the international agreement, but in the codifications of health laws made originally in 1934 (?), there were already provisions incorporated which dealt with control and penalties in connection with marijuana. The new Public Health or Sanitary Code revised on March 26, 1973 (D.O. Mar. 13, 1973) was also consulted. The provisions on marijuana and other narcotics of the earlier law are still incorporated. The Mexican laws contain more detail than those of other Hispanic jurisdictions, and, insofar as pertinent to this study, some of the provisions are summarized as follows.

Chapter VIII of the Public Health or Sanitation Code commences with article 290, and the subject of narcotics is continued through its articles 323. Article 290 outlines the general coverage as follows:

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The planting, cultivation, cropping, elaboration, preparation, adaptation, purchase, possession, trade, importation, exportation, transportation in any form, medical prescription, furnishing, use, consumption, and in general, any act concerning the traffic of furnishing of stupefacients or of any other product to be considered as such in the Mexican United States, are subject to:

- I) International treaties and agreements;
- II) The provisions of this code and of its regulations;
- III) The rulings issued by the General Health Council;
- IV) The regulations provided by other statutes and general provisions on this matter;
- V) The administrative and technical rulings issued on this matter by the Secretariat of Health and [Public] Assistance; and
- VI) The rulings issued by the Secretariats of the Treasury and Public Credit and Industry and Commerce on fiscal matters and importations and exportations, respectively.

Article 292 contains a long list of substances that shall be considered narcotics. The acts enumerated in the first article supra are also applicable to marihuana, pursuant to the provisions of article 293 of the code. This code even prohibits passage across Mexican soil, en route to other countries, of any of the substances enumerated in article 292 (article 296).

The authorized therapeutic and medical aspects are covered in several articles, including article 308 which reads:

Narcotics may be prescribed only by the professional persons enumerated below, provided their licenses are registered with the Secretariat of Public Health and Welfare, and that they observe all of the requirements fixed by said Secretariat:

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I) Surgeons; II) Veterinarians; III) Dental surgeons solely in dental cases.

Various types of limitations and restrictions are defined in articles 310 through 318, dealing with pharmacies and druggists, as well as rules on medical prescription, records to be maintained, and related matters.

The aspect of trade in psychotropic substances commences with article 319 which provides that:

this trade, importation, exportation, transportation, in any form, manufacture, elaboration, sale, purchase, possession, medical prescription, warehousing, adaptation, preparation, use, consumption, and in general, any act concerning the traffic or furnishing of psychotropic substances shall be subject to:

- I) International treaties and agreements
- II) The provisions of this code and its regulations
- III) The rulings issued by the General Health Council
- IV) The regulations provided by other statutes and general provisions on this matter and
- V) The administrative and technical rulings issued on this matter by the Secretariat of Health and [Public] Assistance.

The penal aspects, which are also covered in the Penal Code infra, are limited herein to administrative actions, rather than judicial. Article 199 provides for confiscation of products or of any apparatus or object necessary for their use or application, to be turned over to Public Health. This department may authorize legitimate use of the confiscated property by others, but in some cases, shall destroy the products and apparatus in the presence of corresponding authorities.

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The Penal Code provisions dealing with offenses against public health were, as stated above, most recently amended by Decree of March 2, 1968. Among the amended provisions are the following which are pertinent to the specific matter of narcotics. Article 85 states that freedom on parole shall not be made available to persons convicted of crimes involving narcotics. Article 193 defines narcotics (stupefacients) by referring to those so classified under the Public Health Code (supra), which included marihuana as such, or in the regulations and laws in force or which may be enacted in the future, as well as those narcotics covered under international treaties and agreements to which Mexico is or may become a party. Under this particular provision, the 1961 Single Convention, which was ratified in 1967 as law of the land, would be an additional source of definition of narcotics.

The various penalties imposed for offenses in this particular field are covered in articles 194 et seq. They are set forth in full, since they are applicable to this report.

Article 194. Imprisonment of two to nine years and a fine of one to ten thousand pesos shall be imposed on any person who cultivates, harvests, or owns resinous Cannabis Indica plants reputed to be narcotics according to article 193 (supra), failing to observe the requirements fixed for this purpose by the laws and measures on the subject, or in actual violation of same.

Any act involving resinous Cannabis plants or the separation from said plants of the resin, whether refined or crude, other than those acts enumerated in this article, but constituting a crime under the

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next article, shall, for the purposes of punishment, be incorporated under the provisions of this chapter.

In no case may the benefit of a suspended sentence be granted to persons who plant, cultivate or harvest resinous Cannabis having the nature of a narcotic.

Article 195. In addition to the acts defined under the preceding article, imprisonment of three to 12 years and a fine of two to twenty thousand pesos may be imposed on:

1) Any person who manufactures, trades in, transports, possesses, purchases, transfers, supplies, even if gratuitously, or who, in general, engages in any act of acquisition, supply, transportation, or trade in narcotics, failing to observe the requirements fixed by the laws, international agreements or treaties, or other health measures referred to in article 193.

2) Any person who, in violation of the laws, international agreements or treaties, and the enumerated health measures of article 193, plants, cultivates, harvests, trades in, transports, possesses, purchases, sells, transfers, supplies, even if gratuitously, or who, in general, engages in any act of acquisition, supply, transportation or trade in seeds or plants having the nature of narcotics;

...

4) Any person who performs acts of general encouragement or who incites, induces or assists another person to use narcotics, or to execute, by use of narcotics, any of the criminal acts defined in this chapter.

The Penal Code also provides penalties to be imposed on persons who, because of their profession or trade in the field of medicine or health, are in a position to use or acquire narcotics professionally. Article 196 includes in this category pharmacists, druggists, and members

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of the medical profession of various categories, and for their violations of the law imposes not only the punishment of a penal nature, but as an necessary penalty, may suspend their practice, or close down their establishments for a number of years. Persons who illegally import or export such narcotic substances are penalized under articles 197 and 198. The narcotics and the apparatus or objects employed for their use or application may be confiscated in such illegal transactions and turned over to the Federal Health Authority for authorized use.

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