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AndrÃ©s GaudÃn

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International Money Laundering Rules Clash with Uruguay's Legal Marijuana Shops

by Andrés Gaudín

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Marijuana sales in authorized dispensaries in Uruguay began July 17, part of a plan to legalize the production, commercialization, and consumption of the drug as an option in the fight against drug dealing.

The project quickly overcame public prejudice and took hold. According to official information, 42% of the drug traffickers' clients are now using the services of legal marijuana dispensaries.

Experts from several countries came to observe the operations of this novel project, which allows registered customers to purchase up to two 5-gram envelopes of cannabis flowers a week (NotiSur Aug. 3, 2012, and Aug. 18, 2017). Media from around the world sent journalists to interviewed scientists, sociologists, and economists, who cited the program as "advanced," "successful," and "revolutionary." But on Aug. 3, a couple of weeks after its launch, the international financial system, using US laws, nearly dealt a death blow to the program, at least as originally conceived. Finally, on Sept. 13, the government found a tentative and precarious way to keep the project alive, announcing it would open the way for the creation of businesses that would only sell cannabis and operate on a cash basis. The program was expanded, as well, when the government authorized the sale of medicines that have cannabidiol as a basic ingredient.

Problems with the project began when the Spanish-owned Banco Santander, and then the Canadian Scotiabank, closed the accounts of a small pharmacy in the department of San José, in central Uruguay. Almost simultaneously, US-based Bank of America told its Uruguayan counterpart, the state-owned Banco de la República Oriental del Uruguay (BROU), that according to established US norms, it should end relationships with any pharmacy that sold marijuana, even though the sales were legal in Uruguay. If it did not, the Uruguayan financial system would be considered "toxic" by US banks, and the doors of Wall Street would be closed for Uruguay.

Trapped between US laws and Uruguayan sovereignty

Apart from the official reaction, the organization that represents pharmacy owners, the PIT-CNT union (known for the Spanish initials of its full name, Plenario Intersindical de Trabajadores-Convención Nacional de Trabajadores), and three former heads of the national drug agency, the Junta Nacional de Drogas (JND), demanded that the government provide a "strong sovereign response." They also denounced the attitude of the foreign banks for "violating constitutional rights and liberties of the [Uruguayan] banks and the security and the rights of thousands of citizens."

Former President José Mujica (2010-2015), who spearheaded the Uruguayan legislation against drug trafficking, called for "the top financial bureaucracy to respect Uruguayan democracy." Then, in one of his classic ironic turns, he said, "I do not want to believe that the international financial system works for the traffickers."

Uruguay is trapped between US laws and its own legislation, noted BBC World on Aug. 22. On the one hand, it said, there is the Financial Action Task Force on Money Laundering (FATF), which

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establishes the international standards for the fight against money laundering. That body requires its members to comply and banks to identify their clients' identities and the source of the money moved through their accounts. Uruguay is a member of FATF. On the other hand, the Uruguayan law on financial inclusion requires all companies, regardless of their size, to use bank accounts to process all operations, including payroll. This eliminates cash sales, which would be the most obvious solution to the crisis. An analysis published on Aug. 25 in The York Times traces the roots of the problem to the US Patriot Act. Enacted in the wake of the terrorist attacks in New York, Virginia, and Pennsylvania on Sept. 11, 2001, the Patriot Act aimed to combat organized international crime by curbing money laundering and drug trafficking. It establishes that financial institutions in the US cannot negotiate with distributors of prohibited substances. Today, that law affects Uruguay and 29 US states that have legalized marijuana sales.

A document of unknown authorship circulating in the Uruguayan Congress echoes Mujica's ironic comment and denounces Scotiabank, Bank of America, Deutsche Bank, and Citicorp as "money launderers, accomplices, and beneficiaries of drug trafficking." To back the accusations, the document cites actions by the US-based National Association of Securities Dealers (NASD) and Argentina's Unidad de Información Financiera (UIF), which issued large fines against those banks. The text noted that the Bank of America had to pay US$16.5 billion to the US government.

Beyond the bewilderment and discomfort generated by the threats issued by international banks--— who are themselves responsible for serious acts of corruption, specifically money laundering for drug traffickers—the situation has led some critics to blame the Uruguayan government for presumed negligence in its economic leadership, arguing that it should have considered existing US law and the implicit risks of the decision to legalize the production and sale of marijuana.

"When the Uruguayan law was under legislative analysis, authorities knew of the existing risks, including the BROU closing some accounts tied to cannabis," said Sebastián Sabini, a congressman from the Frente Amplio and an expert on the topic. "This goes back six months and even affects companies doing scientific research with cannabis, a use that is recognized by international agreements," he said.

"We must admit that this is a complex issue that perhaps was not fully perceived," Milton Romani, a former president of the JND told the Uruguayan magazine Brecha. "But to have a response today commensurate with the aggression received, it's worth asking how a sovereign Uruguay met agreements with Iran or Cuba when both countries suffered restrictions by the international community, and even in the worst moments, Uruguay continued to export rice to them." Romani, who was ambassador to the Organization of American States and in 2003 received the Human Rights Award from the Washington Office on Latin America (WOLA), recalled that Uruguay has "enormous prestige" for the mechanisms it has developed to control money laundering. "Banco Santander, which had to pay fines in Argentina and Brazil for money laundering, shouldn't decide to close the account of a small Uruguayan pharmacy working legally and honesty," he said.

According to Romani, if there is an ideal country to ensure the traceability of marijuana, it's Uruguay. "There is a need to consider the mental rigidity that exists on this issue, which sets inconceivable levels of resistance," said Romani, who helped draft Mujica's drug legislation. But he said he doubted that this rigidity could be sustained when cannabis has already been legalized in California, the seventh largest economy in the world, and when it will be legalized in Canada by July of next year.

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"I'd like to know how long it will take for the big banks to see that the flow of money from legal marijuana carries fewer risks and many more benefits than laundering money from drug traffickers," added Romani in a clear indictment of the role banks play in money laundering. "Or is someone unaware that without the banks, it would be impossible to transfer and sanitize the huge volumes of money moved around drug trafficking?"

Allowing cash sales

The newspaper El País de Montevideo quoted Juan Andres Roballo, vice secretary of the presidency, acknowledging that the government's solution to the impasse—to allow cash transactions in marijuana sales—is "a type of patch, an attempt to elude the financial system while the United States continues listing cannabis as a prohibited substance." Roballo, who days before had traveled to New York and Washington with Central Bank President Mario Bergara in an effort to solve the situation, added, "In the United States, there's discussion of a law that may allow banks to operate with money from marijuana sales, but since we cannot foresee how fast the legislature there will act, we are looking for legal alternatives [this type of patch] outside the financial system."

In light of the discouraging outlook in the US, the Uruguayan government opted for what Roballo defined as "an exceptional situation that requires temporary solutions, because the official government policy is to move toward "full banking," something that for now will not be done in the unique case of marijuana sales.

"The problem still exists, but it was important to give a practical response," Sabini said. "Even if cash marijuana sales are allowed, one of the bases for the "full banking" model is the idea that, sooner or later, everywhere in the world, everything ends up in the banking system. Everything will depend on how rigid Uruguay's partner banks in the US—such as Bank of America or Citicorp—decide to be, and on how rigidly local banks control the origin of their clients' money," Roballo said.

Sabini called for an emphasis on security issues, because these new cash-only businesses will handle large volumes of cash and marijuana, making them doubly attractive to criminals.

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