

for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Caucus for the purpose of carrying out the provisions of this section.

“(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Caucus shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

“(h) STAFF.—The Caucus may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(i) TERMINATION.—The Caucus shall cease to exist on September 30, 2005.”

Pub. L. 99-151, title III, §306, Nov. 13, 1985, 99 Stat. 808, provided that:

“(a) Notwithstanding the provisions of this or any other Act, the United States International Narcotics Control Commission, established by section 814 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 [section 814 of Pub. L. 99-93, set out as a note above], is hereby redesignated and shall hereafter be known as the United States Senate Caucus on International Narcotics Control.

“(b) Any reference to the United States International Narcotics Control Commission in any law, regulation, document, record, or other official paper of the United States shall be deemed to be a reference to the United States Senate Caucus on International Narcotics Control.”

#### DRUG TRAFFICKING AND PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS

Section 619 of Pub. L. 99-83 provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

“(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

“(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

“(b) POLICY.—The Congress—

“(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

“(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

“(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States.”

#### USE OF FUNDS APPROPRIATED PRIOR TO DECEMBER 29, 1981, FOR HERBICIDE ERADICATION OF MARIHUANA AND COLOMBIAN ANTI-NARCOTICS ENFORCEMENT PROGRAM

Section 502(a)(2)-(4) of Pub. L. 97-113 provided that:

“(2) Assistance provided from funds appropriated, before the enactment of this Act [Dec. 29, 1981], to carry out section 481 of the Foreign Assistance Act of 1961 [this section] may be made available for purposes prohibited by subsection (d) of such section as in effect im-

mediately before the enactment of this subsection [Dec. 29, 1981].

“(3) Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 [this section] which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act [22 U.S.C. 2291a] as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980 [Dec. 16, 1980].

“(4) Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs.”

#### UNITED STATES CITIZENS IMPRISONED IN MEXICO

Section 408 of Pub. L. 94-329, title IV, June 30, 1976, 90 Stat. 759, as amended by Pub. L. 95-384, §29(b), Sept. 26, 1978, 92 Stat. 747, provided that:

“(a) The Congress, while sharing the concern of the President over the urgent need for international cooperation to restrict traffic in dangerous drugs, is convinced that such efforts must be consistent with respect for fundamental human rights. The Congress, therefore, calls upon the President to take steps to insure that United States efforts to secure stringent international law enforcement measures are combined with efforts to secure fair and humane treatment for citizens of all countries.

“(b) The Congress requests that the President communicate directly to the President and Government of the Republic of Mexico, a nation with which we have friendly and cooperative relations, the continuing desire of the United States for such relations between our two countries and the concern of the United States over treatment of United States citizens arrested in Mexico.”

#### DELEGATION OF PRESIDENTIAL AUTHORITIES UNDER INTERNATIONAL NARCOTICS CONTROL ACT OF 1990

Determination of President of the United States, No. 91-20, Jan. 25, 1991, 56 F.R. 8681, provided:

Memorandum for the Secretary of State [and] the Secretary of Defense

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, including the provisions of the International Narcotics Control Act of 1990 (the INCA), Public Law 101-623 [see Short Title of 1990 Amendment note set out under section 2151 of this title], and 3 U.S.C. section 301, I hereby:

(1) Delegate to the Secretary of State the functions conferred upon me by the following sections of the INCA:

Section 4(a) [Nov. 21, 1990, 104 Stat. 3353]; section 4(e); and, in consultation with the Secretary of Defense, section 13 [22 U.S.C. 2291h note].

(2) Delegate to the Secretary of Defense the functions conferred upon me by section 8 of the INCA [set out as a note above].

(3) Delegate to the heads of executive departments and agencies those functions under the INCA relating to notifications to the Congress insofar as such functions relate to programs for which those heads of departments and agencies have responsibilities for notifications to the Congress under Executive Order No. 12163, as amended [22 U.S.C. 2381 note]; provided that the heads of departments and agencies shall consult with the Secretary of State before exercising the functions delegated by this paragraph with regard to narcotics-related assistance.

The Secretary of State is authorized and directed to publish this memorandum in the Federal Register.

GEORGE BUSH.

#### § 2291-1. Repealed. Pub. L. 102-583, §6(e)(2), Nov. 2, 1992, 106 Stat. 4933

Section, Pub. L. 99-570, title II, §2013, Oct. 27, 1986, 100 Stat. 3207-66; Pub. L. 100-690, title IV, §4404, Nov. 18,

1988, 102 Stat. 4276, related to reports and restrictions concerning major illicit drug producing and major drug-transit countries.

**§ 2291-2. Repealed. Pub. L. 103-447, title I, § 103(b), Nov. 2, 1994, 108 Stat. 4693**

Section, Pub. L. 100-690, title IV, § 4501, Nov. 18, 1988, 102 Stat. 4284; Pub. L. 102-583, § 6(e)(1), Nov. 2, 1992, 106 Stat. 4933, provided for reporting on transfer of United States assets.

**§ 2291-3. Repealed. Pub. L. 102-583, § 6(e)(1), Nov. 2, 1992, 106 Stat. 4933**

Section, Pub. L. 100-690, title IV, § 4601, Nov. 18, 1988, 102 Stat. 4286, provided for the coordination of all United States anti-narcotics assistance to foreign countries. See section 2291(b) of this title.

**§ 2291-4. Official immunity for authorized employees and agents of United States and foreign countries engaged in interdiction of aircraft used in illicit drug trafficking**

**(a) Employees and agents of foreign countries**

Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States has, during the 12-month period ending on the date of the interdiction, certified to Congress with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

**(b) Employees and agents of United States**

Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a) of this section. The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

**(c) Annual report**

(1) Except as provided in paragraph (2), not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) of this section during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

(A) A list specifying each country for which a certification referred to in subsection (a)(2)

of this section was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) of this section in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

(C) A complete description of any assistance provided under subsection (b) of this section.

(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b) of this section.

(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 401a of title 50), the submittal date for such report shall be as provided in section 415b of title 50.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

**(d) Definitions**

For purposes of this section:

(1) The terms “interdict” and “interdiction”, with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term “illicit drug trafficking” means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term “assistance” includes operational, training, intelligence, logistical, technical, and administrative assistance.

(Pub. L. 103-337, div. A, title X, § 1012, Oct. 5, 1994, 108 Stat. 2837; Pub. L. 107-108, title V, § 503, Dec. 28, 2001, 115 Stat. 1405; Pub. L. 107-306, title VIII, § 811(b)(6), Nov. 27, 2002, 116 Stat. 2425.)

**CODIFICATION**

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1995, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

**AMENDMENTS**

2002—Subsec. (c)(1). Pub. L. 107-306, § 811(b)(6)(A), substituted “Except as provided in paragraph (2), not later than” for “Not later than”.

Subsec. (c)(2), (3). Pub. L. 107-306, § 811(b)(6)(B), (C), added par. (2) and redesignated former par. (2) as (3).

2001—Subsec. (a)(2). Pub. L. 107-108, § 503(a), substituted “has, during the 12-month period ending on the date of the interdiction, certified to Congress” for “, before the interdiction occurs, has determined” in introductory provisions.

Subsecs. (c), (d). Pub. L. 107-108, § 503(b), added subsec. (c) and redesignated former subsec. (c) as (d).

**DELEGATION OF FUNCTIONS**

Functions of President under subsec. (c) of this section delegated to Secretary of State, see Memorandum