

luder with others in the illicit trafficking in any such substance.

(b) Regulations

The President shall issue regulations specifying the steps to be taken in carrying out this section.

(c) Congressional review of regulations

Regulations issued pursuant to subsection (b) of this section shall be submitted to the Congress before they take effect.

(Pub. L. 87–195, pt. I, §487, as added Pub. L. 100–690, title IV, §4503, Nov. 18, 1988, 102 Stat. 4285; amended Pub. L. 102–583, §6(b)(6), Nov. 2, 1992, 106 Stat. 4932; Pub. L. 103–447, title I, §101(e), Nov. 2, 1994, 108 Stat. 4692.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, known as the Foreign Assistance Act of 1961. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–447 inserted “to” after “relating”.

1992—Subsec. (a)(1). Pub. L. 102–583 struck out “(as defined in section 2291(i)(3) of this title)” after “controlled substances”.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2291g. Limitations on acquisition of real property and construction of facilities

(a) Acquisition of real property

(1) Prohibition

Funds made available to carry out this part may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

(2) Exception for certain leases

Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

(b) Construction of facilities

(1) Limitation

Funds made available to carry out this part may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 2394–1 of this title.

(2) Exception

Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than \$750,000 under this part.

(Pub. L. 87–195, pt. I, §488, as added Pub. L. 100–690, title IV, §4505, Nov. 18, 1988, 102 Stat. 4285; amended Pub. L. 102–583, §4(g), Nov. 2, 1992, 106 Stat. 4917; Pub. L. 107–228, div. A, title VI, §671(3), Sept. 30, 2002, 116 Stat. 1407.)

AMENDMENTS

2002—Subsec.(a)(3). Pub. L. 107–228 struck out heading and text of par. (3). Text read as follows: “The Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after the end of each quarter of the fiscal year a detailed report on all leases entered into pursuant to paragraph (2), including the cost and duration of such lease, a description of the property leased, and the purpose for which such lease was entered into.”

1992—Pub. L. 102–583 amended section generally. Prior to amendment, section read as follows: “Funds made available to carry out this part may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces”.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

§ 2291h. Reporting requirements

(a) International narcotics control strategy report

Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

(1) For each country that received assistance under this part for either of the 2 preceding fiscal years, a report on the extent to which the country has—

(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mu-

tual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

(3) The identity of those countries which are—

(A) major illicit drug producing countries or major drug-transit countries as determined under section 2291j(h) of this title;

(B) major sources of precursor chemicals used in the production of illicit narcotics; or

(C) major money laundering countries.

(4) In addition, for each country identified pursuant to paragraph (3), the following:

(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

(iii) which countries identified pursuant to clause (ii)—

(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

(B) Which countries—

(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant

transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

(vi) enacted laws for the sharing of seized narcotics assets with other governments;

(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

(8)(A) A separate section that contains the following:

(i) An identification of the five countries that exported the largest amount of pseudoephedrine, ephedrine, and phenylpropanolamine (including the salts, optical isomers, or salts of optical isomers of such chemicals, and also including any products or substances containing such chemicals) during the preceding calendar year.

(ii) An identification of the five countries that imported the largest amount of the chemicals described in clause (i) during the preceding calendar year and have the highest rate of diversion of such chemicals for use in the illicit production of methamphetamine (either in that country or in another country).

(iii) An economic analysis of the total worldwide production of the chemicals described in clause (i) as compared to the legitimate demand for such chemicals worldwide.

(B) The identification of countries that imported the largest amount of chemicals under subparagraph (A)(ii) shall be based on the following:

(i) An economic analysis that estimates the legitimate demand for such chemicals in such countries as compared to the actual or estimated amount of such chemicals that is imported into such countries.

(ii) The best available data and other information regarding the production of methamphetamine in such countries and the diversion of such chemicals for use in the production of methamphetamine.

(b) Annual reports on assistance

(1) In general

At the time that the report required by subsection (a) of this section is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) Information to be included

Each report pursuant to this subsection shall—

(A) specify the amount and nature of the assistance provided or to be provided;

(B) include, for each country identified in subsection (a)(3)(A) of this section, information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

(i) the assistance provided or to be provided to such country by that agency, and

(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

(Pub. L. 87-195, pt. I, § 489, as added Pub. L. 102-583, § 5(a), Nov. 2, 1992, 106 Stat. 4917; amended Pub. L. 103-447, title I, § 101(f)(1), Nov. 2, 1994, 108 Stat. 4692; Pub. L. 104-66, title I, § 1112(c), Dec. 21, 1995, 109 Stat. 724; Pub. L. 109-177, title VII, § 722(a), Mar. 9, 2006, 120 Stat. 268.)

REFERENCES IN TEXT

Section 2015 of the International Narcotics Act of 1986, referred to in subsec. (a)(2)(A), probably means section 2015 of the International Narcotics Control Act of 1986, Pub. L. 99-570, which was set out as a note under section 1902 of the former Appendix to Title 46, Shipping, prior to being repealed by Pub. L. 103-447, title I, § 103(c), Nov. 2, 1994, 108 Stat. 4694.

PRIOR PROVISIONS

A prior section 2291h, Pub. L. 87-195, pt. I, § 489, as added Pub. L. 100-690, title IV, § 4507, Nov. 18, 1988, 102 Stat. 4286, related to permissible uses of aircraft and other equipment, prior to amendment by Pub. L. 102-583, § 4(f)(2), Nov. 2, 1992, 106 Stat. 4917, which also transferred subsecs. (a) and (b) to section 2291c(b) and (c) of this title, respectively, and repealed the designation, heading, and subsecs. (c) and (d).

AMENDMENTS

2006—Subsec. (a)(8). Pub. L. 109-177 added par. (8).
1995—Pub. L. 104-66, § 1112(c)(1), struck out “for fiscal year 1995” after “Reporting requirements” in section catchline.

Subsec. (c). Pub. L. 104-66, §1112(c)(2), struck out heading and text of subsec. (c). Text read as follows: "This section applies only during fiscal year 1995. Section 2291i of this title does not apply during that fiscal year."

1994—Pub. L. 103-447, §101(f)(1)(A), substituted "for fiscal year 1995" for "for fiscal years 1993 and 1994" in section catchline.

Subsec. (a). Pub. L. 103-447, §101(f)(1)(B)(i), substituted "March 1" for "April 1" in introductory provisions.

Subsec. (a)(3)(B) to (D). Pub. L. 103-447, §101(f)(1)(B)(ii), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;"

Subsec. (c). Pub. L. 103-447, §101(f)(1)(D), (E), redesignated subsec. (d) as (c) and amended heading and text generally. Prior to amendment, text read as follows: "This section applies only during fiscal years 1993 and 1994. Section 2291i of this title does not apply during those fiscal years."

Pub. L. 103-447, §101(f)(1)(C), struck out heading and text of subsec. (c). Text read as follows: "As used in this section—

"(1) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 802 of title 21; and

"(2) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking."

Subsec. (d). Pub. L. 103-447, §101(f)(1)(D), redesignated subsec. (d) as (c).

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title.

PLAN TO ADDRESS DIVERSION OF PRECURSOR CHEMICALS

Pub. L. 109-177, title VII, §722(d), Mar. 9, 2006, 120 Stat. 269, provided that: "In the case of each country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of the Foreign Assistance Act of 1961 [22 U.S.C. 2291h(a)(8)(A)] (as added by subsection (a)) with respect to which the President has not transmitted to Congress a certification under section 490(b) of such Act (22 U.S.C. 2291j(b)), the Secretary of State, in consultation with the Attorney General, shall, not later than 180 days after the date on which the President transmits the report required by section 489(a) of such Act (22 U.S.C. 2291h(a)), submit to Congress a compre-

hensive plan to address the diversion of the chemicals described in section 489(a)(8)(A)(i) of such Act to the illicit production of methamphetamine in such country or in another country, including the establishment, expansion, and enhancement of regulatory, law enforcement, and other investigative efforts to prevent such diversion."

STATUTORY REFERENCES TO ANNUAL REPORTS, CERTIFICATIONS, AND DEFINITIONS

Section 6(a) of Pub. L. 102-583 provided that after Sept. 30, 1994, any reference in any provision of law to section 2291h or 2291j of this title would be deemed a reference to the corresponding provision of section 2291i or 2291k of this title, respectively, unless the context required otherwise; any reference in any provision of law enacted before Nov. 2, 1992, to section 2291(e) or (i) of this title be deemed a reference to section 2291h or 2291(e) of this title, respectively; and that any reference in any provision of law enacted before Nov. 2, 1992, to section 2291(h) of this title be deemed, as of Oct. 1, 1992, to be a reference to section 2291j of this title, prior to repeal by Pub. L. 103-447, title I, §103(a), Nov. 2, 1994, 108 Stat. 4693.

§ 2291i. Repealed. Pub. L. 104-66, title I, § 1112(a), Dec. 21, 1995, 109 Stat. 723

Section, Pub. L. 87-195, pt. I, §489A, as added Pub. L. 102-583, §5(a), Nov. 2, 1992, 106 Stat. 4921; amended Pub. L. 103-447, title I, §101(f)(2), Nov. 2, 1994, 108 Stat. 4692, related to reporting requirements applicable after Sept. 30, 1995.

§ 2291j. Annual certification procedures

(a) Withholding of bilateral assistance and opposition to multilateral development assistance

(1) Bilateral assistance

Fifty percent of the United States assistance allocated each fiscal year in the report required by section 2413 of this title for each major illicit drug producing country, major drug-transit country, or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title shall be withheld from obligation and expenditure, except as provided in subsection (b) of this section. This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394-1 of this title.

(2) Multilateral assistance

The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h) of this section) or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title, except as provided in subsection (b) of this section. For purposes of this paragraph, the term "multilateral development bank" means the International Bank for Reconstruc-