

§ 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 Repealed.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 of President of the United States, July 21, 2010, 75 F.R. 43795, set out as a note under section 5202 of this title.

PRESIDENTIAL DETERMINATIONS RELATING TO INTERDICTION

The President made the determination required by subsec. (a)(2) of this section for the following countries:
BRAZIL.—Determination No. 2013–01, Oct. 11, 2012, 77 F.R. 65457.

Determination No. 2012–02, Oct. 14, 2011, 76 F.R. 70635.
Determination No. 2011–03, Oct. 15, 2010, 75 F.R. 75853.

Determination No. 2010-02, Oct. 16, 2009, 74 F.R. 54429.
 Determination No. 2009-4, Oct. 15, 2008, 73 F.R. 62849.
 Determination No. 2008-3, Oct. 16, 2007, 72 F.R. 61035.
 Determination No. 2007-3, Oct. 16, 2006, 71 F.R. 65369.
 Determination No. 2006-02, Oct. 16, 2005, 70 F.R. 62227.
 Determination No. 2005-03, Oct. 16, 2004, 69 F.R. 62797.
 COLOMBIA.—Determination No. 2012-13, Aug. 10, 2012,
 77 F.R. 50559.
 Determination No. 2011-13, Aug. 10, 2011, 76 F.R. 53299.
 Determination No. 2010-11, Aug. 10, 2010, 75 F.R. 67011,
 68405.
 Determination No. 2009-24, Aug. 13, 2009, 74 F.R. 42573.
 Determination No. 2008-24, Aug. 15, 2008, 73 F.R. 54283.
 Determination No. 2007-28, Aug. 16, 2007, 72 F.R. 50035.
 Determination No. 2006-19, Aug. 17, 2006, 71 F.R. 51975.
 Determination No. 2005-32, Aug. 17, 2005, 70 F.R. 50949.
 Determination No. 2004-42, Aug. 17, 2004, 69 F.R. 52807.
 Determination No. 2003-32, Aug. 18, 2003, 68 F.R. 50963.
 Determination No. 95-7, Dec. 1, 1994, 59 F.R. 64835.
 PERU.—Determination No. 95-9, Dec. 8, 1994, 59 F.R.
 65231.

§ 2291-5. Provision of nonlethal equipment to foreign law enforcement organizations for cooperative illicit narcotics control activities

(a) In general

(1) Subject to paragraph (2), the Administrator of the Drug Enforcement Administration, in consultation with the Secretary of State, may transfer or lease each year nonlethal equipment to foreign law enforcement organizations for the purpose of establishing and carrying out cooperative illicit narcotics control activities.

(2)(A) The Administrator may transfer or lease equipment under paragraph (1) only if the equipment is not designated as a munitions item or controlled on the United States Munitions List pursuant to section 2778 of this title.

(B) The value of each piece of equipment transferred or leased under paragraph (1) may not exceed \$100,000.

(b) Additional requirement

The Administrator shall provide for the maintenance and repair of any equipment transferred or leased under subsection (a) of this section.

(c) Notification requirement

Before the export of any item authorized for transfer under subsection (a) of this section, the Administrator shall provide written notice to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 2394-1 of this title.

(d) Sense of Congress

It is the sense of Congress that—

(1) all United States law enforcement personnel serving in Mexico should be accredited the same status under the Vienna Convention on Diplomatic Immunity as other diplomatic personnel serving at United States posts in Mexico; and

(2) all Mexican narcotics law enforcement personnel serving in the United States should be accorded the same diplomatic status as Drug Enforcement Administration personnel serving in Mexico.

(Pub. L. 105-277, div. C, title VIII, §843, Oct. 21, 1998, 112 Stat. 2681-704.)

CODIFICATION

Section was enacted as part of the Western Hemisphere Drug Elimination Act, and also as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Foreign Assistance Act of 1961 which comprises this chapter.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 2291a. Authorization of appropriations

(a) Fiscal year authorization; availability of funds

(1) To carry out the purposes of section 2291 of this title, there are authorized to be appropriated to the President \$147,783,000 for fiscal year 1993 and \$171,500,000 for fiscal year 1994.

(2) Amounts appropriated under this subsection are authorized to remain available until expended.

(b) Procurement of weapons and ammunition

(1) Prohibition

Except as provided in paragraph (2), funds made available to carry out this part shall not be made available for the procurement of weapons or ammunition.

(2) Exceptions

Paragraph (1) shall not apply with respect to funds for the procurement of—

(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel of the Department of State engaged in activities under this part,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394-1 of this title.

(c) Contributions and reimbursement

(1) To ensure local commitment to the activities assisted under this part, a country receiving assistance under this part should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an “in kind” basis.

(2)(A) The President is authorized to accept contributions from foreign governments to carry out the purposes of this part. Such contributions shall be deposited as an offsetting collection to the applicable appropriation account and may be used under the same terms and conditions as funds appropriated pursuant to this part.

(B) At the time of submission of the annual congressional presentation documents required by section 2394(a) of this title, the President shall provide a detailed report on any contributions received in the preceding fiscal year, the amount of such contributions, and the purposes for which such contributions were used.