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 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.

(3) The President is authorized to provide assistance under this part on a reimbursable basis. Such reimbursements shall be deposited as an offsetting collection to the applicable appropriation and may be used under the same terms and conditions as funds appropriated pursuant to this part.

(d) Administrative assistance

(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.

(e) Advance notification of transfer of seized assets

The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.

(f) Treatment of funds

Funds transferred to and consolidated with funds appropriated pursuant to this part may be made available on such terms and conditions as are applicable to funds appropriated pursuant to this part. Funds so transferred or consolidated shall be apportioned directly to the bureau within the Department of State responsible for administering this part.

(g) Excess property

For purposes of this part, the Secretary of State may use the authority of section 2358 of this title, without regard to the restrictions of such section, to receive nonlethal excess property from any agency of the United States Government for the purpose of providing such property to a foreign government under the same terms and conditions as funds authorized to be appropriated for the purposes of this part.

(Pub. L. 87-195, pt. I, §482, as added Pub. L. 92-352, title V, §503, July 13, 1972, 86 Stat. 497; amended Pub. L. 93-189, §11(b), Dec. 17, 1973, 87 Stat. 720; Pub. L. 94-329, title V, §504(a), June 30, 1976, 90 Stat. 764; Pub. L. 95-92, §3, Aug. 4, 1977, 91 Stat. 614; Pub. L. 95-384, §5, Sept. 26, 1978, 92 Stat. 731; Pub. L. 96-92, §3(a), Oct. 29, 1979, 93 Stat. 701; Pub. L. 96-533, title IV, §402(a), (b), Dec. 16, 1980, 94 Stat. 3149; Pub. L. 97-113, title V, §502(c), Dec. 29, 1981, 95 Stat. 1539; Pub. L. 99-83, title VI, §§602, 608, 614, Aug. 8, 1985, 99 Stat. 228, 229, 231; Pub. L. 99-529, title IV, §401, Oct. 24, 1986, 100 Stat. 3019; Pub. L. 99-570, title II, §2002, Oct. 27, 1986, 100 Stat. 3207-60; Pub. L. 100-690, title IV, §4201, Nov. 18, 1988, 102 Stat. 4267; Pub. L. 101-231, §§16, 17(g), Dec. 13, 1989, 103 Stat. 1964, 1965; Pub. L. 102-583, §§3, 4(e), 6(b)(4), Nov. 2, 1992, 106 Stat. 4914, 4915, 4932; Pub. L. 103-236, title I, §164(a), Apr. 30, 1994, 108 Stat. 411; Pub. L. 103-447, title I, §101(c), Nov. 2, 1994, 108 Stat. 4692; Pub. L. 104-164, title I, §131(b), (c), July 21, 1996, 110 Stat. 1429.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-164, §131(b), substituted “Contributions and reimbursement” for “Contribution by recipient country” in heading, redesignated existing provisions as par. (1), and added pars. (2) and (3).

Subsecs. (f), (g). Pub. L. 104-164, §131(c), added subsecs. (f) and (g).

1994—Subsec. (d). Pub. L. 103-236 added subsec. (d).

Subsec. (e). Pub. L. 103-447 added subsec. (e).

1992—Subsec. (a)(1). Pub. L. 102-583, §3, substituted “\$147,783,000 for fiscal year 1993 and \$171,500,000 for fiscal year 1994” for “\$115,000,000 for fiscal year 1990”.

Subsec. (b). Pub. L. 102-583, §4(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Funds authorized to be appropriated by this section shall not be made available for the procurement of weapons or ammunition under this part.”

Subsecs. (c), (d). Pub. L. 102-583, §6(b)(4), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “Notwithstanding section 1306 of title 31, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, and section 1705 of title 7, up to the equivalent of \$10,000,000 in currencies or credits of the Government of Pakistan held by the United States shall, to such extent as may be provided in an appropriation Act, be available to the President for the fiscal year 1981 (and shall remain available until expended) to carry out the purposes of section 2291 of this title through assistance to the Government of Pakistan. Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies shall not affect or reduce appropriations otherwise available to carry out the administration of the international narcotics control program.”

1989—Subsec. (a)(1). Pub. L. 101-231, §16, substituted “\$115,000,000 for fiscal year 1990” for “\$101,000,000 for fiscal year 1989”.

Subsec. (d). Pub. L. 101-231, §17(g), inserted “Contribution by recipient country” as heading and amended text generally. Prior to amendment, text read as follows: “Assistance may be provided under this part to a foreign country only if the country provides assurances to the President, and the President is satisfied, that the country will provide at least 25 percent of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. The costs borne by the country may include ‘in-kind’ contributions.”

1988—Subsec. (a). Pub. L. 100-690 added par. (1) and struck out former pars. (1) and (3) which related to authorization for fiscal years 1986 and 1987, and to contribution to United Nations Fund for Drug Abuse Control.

1986—Subsec. (a)(1). Pub. L. 99-570, §2002(1), which directed that “\$75,445,000 for the fiscal year 1987” be substituted for “\$57,529,000 for the fiscal year 1987”, was executed by making the substitution for “\$65,445,000 for the fiscal year 1987” to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99-529. See Amendment note for Pub. L. 99-529 below.

Pub. L. 99-570, §2002(2), inserted provisions that if the President submits a detailed plan for use of the money, an additional \$45,000,000 may be appropriated to carry out the purpose of section 2291 of this title, of which at least \$10,000,000 shall be used primarily for helicopters or other aircraft based in Latin America for use for narcotics control, eradication, and interdiction efforts throughout the region.

Pub. L. 99-529, which directed the substitution of “\$65,445,000 for the fiscal year 1987” for “\$57,529,000 for the fiscal year 1987”, was executed by substituting the new phrase for “\$57,529,000 for fiscal year 1987” to reflect the probable intent of Congress.

1985—Subsec. (a)(1). Pub. L. 99-83, §602, amended par. (1) generally, substituting provisions authorizing appropriations of \$57,529,000 for fiscal years 1986 and 1987, for provisions authorizing appropriations of \$37,700,000 for fiscal years 1982 and 1983.

Subsec. (a)(3). Pub. L. 99-83, § 614, added par. (3).

Subsec. (d). Pub. L. 99-83, § 608, added subsec. (d).

1981—Subsec. (a). Pub. L. 97-113, in par. (1), substituted appropriations authorization of \$37,700,000 for fiscal years 1982 and 1983 for appropriation of \$38,573,000 for fiscal year 1981, redesignated par. (3) as (2), and deleted former par. (2) which limited the contribution to the United Nations Fund for Drug Abuse Control from fiscal year 1981 appropriated funds to lesser of \$3,000,000 or 50 percent of the total contributions by all countries to such Fund for the calendar year with respect to which the United States contribution is made.

1980—Subsec. (a). Pub. L. 96-533, § 402(a), in par. (1), substituted appropriations authorization of \$38,573,000 for fiscal year 1981 for such authorization of \$51,758,000 for fiscal year 1980, redesignated as par. (3) as (2), substituting therein “1981” and “50 percent” for “1980” and “25 percent”, and deleted former par. (2) authorization of \$16,000,000 for interdiction of drug traffic by Republic of Colombia to be used only for helicopters, patrol vessels, fixed radar equipment, transport vehicles, fuel, and for training personnel, and redesignated par. (4) as (3).

Subsec. (c). Pub. L. 96-533, § 402(b), added subsec. (c).

1979—Subsec. (a)(1). Pub. L. 96-92 designated existing provisions as par. (1), substituted appropriations authorization of \$51,758,000 for fiscal year 1980 for authorization of \$40,000,000 for fiscal year 1979, and designated provision respecting availability of funds as par. (4).

Subsec. (a)(2), (3). Pub. L. 96-92 added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 96-92 designated existing provision respecting availability of funds as par. (4) and substituted “subsection” for “section”.

1978—Pub. L. 95-384 designated existing provisions as subsec. (a), substituted “\$40,000,000 for the fiscal year 1979” for “\$39,000,000 for the fiscal year 1978”, and added subsec. (b).

1977—Pub. L. 95-92 substituted provisions authorizing appropriations for fiscal year 1978 and providing for availability of amounts appropriated until expended, for provisions authorizing appropriations for fiscal years 1974 through 1977, provisions prohibiting obligation of appropriation for fiscal year 1976 for any country illegally trafficking in opiates unless such appropriation aids in reducing the amount of illegal opiates entering the international market, and provisions authorizing availability of amounts appropriated until expended.

1976—Pub. L. 94-329 inserted provision that authorized \$40,000,000 for the fiscal year 1976, no part of which can be obligated to any country where illegal opiate traffic is a significant problem unless the President certifies in writing to the Speaker of the House and chairman of the Senate Committee on Foreign Relations that the assistance furnished is significantly the amount of illegal opiates entering the international market, and authorized \$34,000,000 for the fiscal year 1977.

1973—Pub. L. 93-189 substituted “\$42,500,000 for each of the fiscal years 1974 and 1975. Amounts appropriated under this section are authorized to remain available until expended”, for “\$42,500,000 for the fiscal year 1973, which amount is authorized to remain available until expended”.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99-83 effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as a note under section 2151-1 of this title.

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.

COLOMBIAN ANTI-NARCOTICS ENFORCEMENT PROGRAM

Pub. L. 96-533, title IV, § 402(c), Dec. 16, 1980, 94 Stat. 3150, provided: “Notwithstanding the provisions of sec-

tion 482(a)(2) of the Foreign Assistance Act of 1961 [subsec. (a)(2) of this section] as in effect immediately prior to the enactment of this Act [Dec. 16, 1980], funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act [section 2291 of this title] which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program.”

§ 2291b. Prohibition on use of foreign assistance for reimbursements for drug crop eradications

Funds made available to carry out this chapter may not be used to reimburse persons whose illicit drug crops are eradicated.

(Pub. L. 87-195, pt. I, § 483, as added Pub. L. 99-83, title VI, § 609, Aug. 8, 1985, 99 Stat. 230.)

REFERENCES IN TEXT

This chapter, referred to in text, 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.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1301 of Pub. L. 99-83, set out as an Effective Date of 1985 Amendment note under section 2151-1 of this title.

§ 2291c. Requirements relating to aircraft and other equipment

(a) Retention of title to aircraft

(1) In general

(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this part, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

(2) Exceptions

(A) Paragraph (1) shall not apply to the extent that—

(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 2394-1 of this title.

(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

(3) Assistance for leasing of aircraft

(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the “Foreign Military Financing Program” under section 23 of the Arms Export Control