

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L. 99-570, which was set out as a note under section 1902 of the former Appendix to Title 46, Shipping, prior to being repealed by Pub.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 (a) and (b) to section 2291c(b) and (c) of this title, respectively, and repealed the designation, heading, and subsecs.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 establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 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 comprehensive 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

Pub. L. 102-583, §6(a), Nov. 2, 1992, 106 Stat. 4932, 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). 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)) or country identified pursuant to clause (i) or (ii) of section 2291h(a)(8)(A) of this title, except as provided in subsection (b). For purposes of this paragraph, the term “multilateral development bank” means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

(b) Certification procedures**(1) What must be certified**

Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 2291h(a) of this title, that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be

provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

(2) Considerations regarding cooperation

In making the determination described in paragraph (1)(A), the President shall consider 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.

(3) Information to be included in national interest certification

If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

(c) Licit opium producing countries

The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.

(d) Congressional review

Subsection (e) shall apply if, within 30 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 2291h(a) of this title, the Congress enacts a joint