

Executive Documents

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.

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 Repealed.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 Repealed.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 mem-

bers 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). 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) 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) 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) 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).

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

(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 3003 of title 50), the submittal date for such report shall be as provided in section 3106 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.)

Editorial Notes

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).

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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. 2015-01, Oct. 9, 2014, 79 F.R. 62793.

Determination No. 2014-02, Oct. 10, 2013, 78 F.R. 62953.

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. 2020-09, July 17, 2020, 85 F.R. 45751.

Determination No. 2019-14, July 19, 2019, 84 F.R. 38109.

Determination No. 2018-10, July 20, 2018, 83 F.R. 39579.

Determination No. 2017-10, July 21, 2017, 82 F.R. 40667.

Determination No. 2016-09, Aug. 4, 2016, 81 F.R. 55107.

Determination No. 2015-10, Aug. 5, 2015, 80 F.R. 50755.

Determination No. 2014-12, Aug. 7, 2014, 79 F.R. 49221.

Determination No. 2013-12, Aug. 9, 2013, 78 F.R. 51647,

73377.

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).

(c) Notification requirement

Before the export of any item authorized for transfer under subsection (a), 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.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Western Hemisphere Drug Elimination Act, and also as part of the